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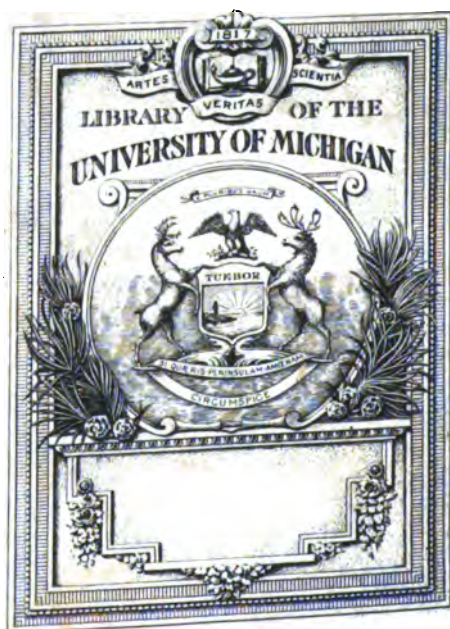
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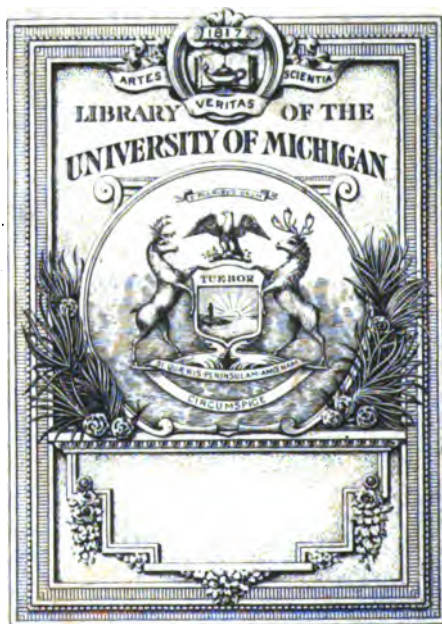
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# JOURNAL

OF THE

# ASSEMBLY

OF THE

## STATE OF NEW YORK

AT THEIR

### ONE HUNDRED AND THIRTY-FOURTH SESSION

BEGUN AND HELD AT THE CAPITOL IN THE CITY OF ALBANY  
ON WEDNESDAY, THE FOURTH DAY OF JANUARY, 1911

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### VOLUME V

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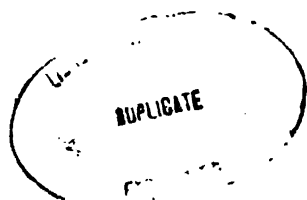


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# APPENDIX.

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**By transfer**

**OCT 30 1912**

## APPENDIX.

(No. 1.)

### SPEAKER'S APPOINTMENTS.

Mr. Speaker announced the following appointments for the session of 1911:

Speaker's clerk.—G. N. Frisbie.

Assistant doorkeepers.—Napoleon Mosher, Chas. Dooley, Jno. Nicodemi, E. C. Desmond, Philip Roth, Jno. Savarese, W. J. Bryan, E. Redeke, J. J. Sheehan, Jno. J. Keena, Frank C. Madden, Thos. J. Martin.

Janitor.—Geo. W. Campbell.

Assistant janitors.—Jos. King, Jno. B. Doughlas, Townsend Parker, Sam'l George.

Postmaster.—Fred Schmid.

Assistant postmaster.—T. W. Neville.

Committee clerk, ways and means.—J. J. Goldstein.

Committee clerk, cities.—T. J. Walsh.

Committee clerk, judiciary.—B. B. Freund.

Committee clerk, codes.—Fred'k Northrup.

Committee clerk, railroads.—W. J. Duffy.

Committee clerk, general laws.—Peter Tiernan.

Committee clerks.—Seymour Merritt, Thos. Murphy, Frank Cain, Jno. E. Cullen, Jas. A. Mackey, Jno. H. White, Jno. Dorst, Jr., Timothy Shea, A. R. Manley, C. P. Schafer, E. P. Landry, A. Taylor, Chas. Little, Henry Bush, Geo. Fagan, C. C. Pontius, M. Lanigan, Isaac Heisman, E. P. White, Thos. F. Kerr, R. G. Wilkins, Jno. J. Cronin, F. Hensler, Harry E. Smith, Edwin R. Caslin, Geo. D. Hughes, Jos. A. Jorden, Geo. Bryant, W. J. Farrell.

General clerks.—Lewis T. Bird, Jas. E. Sweeney, D. Germanhausen, Thos. F. Campbell, Thos. F. McGrath, A. Schultz, M. E. Townsend, R. B. Irwin, Joseph Tierney, E. G. Coleman.

Speaker's stenographer.— C. F. Boughton.  
Ways and means stenographer.— Jno. Morris.  
Cities stenographer.— H. V. Russell.  
Judiciary stenographer.— Helen Unger.  
Codes stenographer.— Edw. T. White.  
Railroads stenographer.— Alex Dooner.  
Insurance stenographer.— Robt. Gibson.  
General laws stenographer.— Celia A. Parsons.  
Journal clerk's stenographer.— Joan Crowley.  
Index clerk's stenographer.— Edw. Brown.  
Minority leader's stenographer.— J. E. N. Mereness.  
Speaker's messenger.— Peter Mace.  
Post-office messenger.— T. J. O'Hare, Jr.  
Ways and means messenger.— Jno. McMahon.  
Cities messenger.— Jno. J. Trainor.  
Minority leader's messenger.— Jas. H. Millard.  
Messengers.— Thos. McGann, M. O. Connell, Jr., Robt. Boyd,  
Joseph Murphy, Thos. A. Doran, F. M. Collins, Richard Mendoza,  
Jno. Williams, Jas. McGuire.

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(No. 2.)

#### CLERK'S APPOINTMENTS.

The Clerk announced the following appointments for the session of 1911:

Assistant clerk.— George R. Van Namee.  
Journal clerk.— William K. Mansfield.  
First assistant journal clerk.— E. J. Murphy.  
Second assistant journal clerk.— G. C. Squires.  
Chief engrossed bills.— Jno. B. Ferre.  
Chief revision committee.— Frank P. Young.  
Index clerk.— J. A. Pachler.  
First assistant index clerk.— J. P. Zenger.  
Second assistant index clerk.— Thos. F. Winters.  
Financial clerk.— Fred M. Fitter, Jr.  
Assistant financial clerk.— Daniel F. Fogerty.

Deputy clerks.—Jno. A. Bell, Louis Cohen, A. J. Fitzpatrick, Peter Broedel, F. R. Pennock, A. McGuitey, Jno. J. Kenny, P. Sullivan, Matthew Smith, W. H. Murphy.

Assistant clerk engrossed bills.—C. F. Bigler.

Librarian.—Mortimer Kelly.

Assistant librarian.—F. L. Ryan.

Clerk's stenographer.—H. M. Hoyt.

General stenographers.—Mary R. McCarthy, Helena Lucy, Jose. Hartigan, Florence Brennan, Lillian Temple, Mary Quinby, Marguerite Norris, Rena E. Collins, Michael McGrath, Josephine Cox.

Superintendent wrapping department.—J. A. O'Toole.

Assistant superintendents wrapping department.—Jno. Winton, Jr., Walter Linindoll, Thomas A. Burke, T. J. McLaughlin, C. H. Swarthout.

Superintendent of documents.—Edw. F. Bailey.

Assistant superintendent of documents.—W. J. Rush, Jr., Edw. B. Fowler, William Downs, M. J. Walsh, I. S. Wells.

Tally clerk.—D. J. McHenry.

Mail and document carrier.—Jno. Cleary.

Clerk's messenger.—J. B. McIntosh.

Financial clerk's messenger.—W. J. McCloskey.

Messengers.—J. J. Caughlian, H. H. Dale, Joseph Lawler, Edw. Fitzsimons, Frank Ryan, T. J. Gorden, J. W. Raftery, R. M. Fitzmaurice, Michael Tully, W. J. Foley, F. A. Sennott, J. J. O'Connor, Wm. Murphy, W. E. Powell, Frank Dugan, Jno. Goodrich, C. L. Leahey, Samuel Leef, Edw. Hall, Alex. Wemette, Jacob Knauber, Chas. Campbell.

Chief messenger.—Vivany Moore.

Pages.—W. F. Flynn, J. J. Culliton, Wm. T. Ball, T. O'Connor, Jno. O. Doris, E. O'Toole, W. McArthur, H. Jackerson, Harry Pitlitz, C. J. Galaise, Edw. Corcoran, J. P. Ogden, W. Ostrander, Ira Halstead, M. J. Connell, Thos. J. Maloney, Edw. Mead, Edw. McAnespey, Jos. Gallagher, R. E. Coullahan, Jas. Sinon, V. Allegritti, O. B. Clapp, Geo. T. Sherwood, W. J. Baxter.



(No. 2½.)

## IN JOINT ASSEMBLY,

JANUARY 27, 1911.

**Reply of the Attorney-General to Resolution of the Joint Assembly  
Relative to the Election of a United States Senator.**

## STATE OF NEW YORK,

ATTORNEY-GENERAL'S OFFICE,

ALBANY, *January 27, 1911.*

*To Lieutenant-Governor THOMAS F. CONWAY, and the Members  
of the Joint Assembly of the Legislature of the State of New  
York:*

GENTLEMEN.—By resolution of the Joint Assembly of the State Legislature, of the 26th instant, I am requested to furnish an opinion as to the intent and effect of the provisions of the Act of Congress relating to the election of a United States Senator.

The provisions of the statute which I am asked to construe constitute section 1 of chapter 245 of the Laws of 1866, and are as follows:

“That the legislature of each State which shall be chosen next preceding the expiration of the time for which any senator was elected to represent said State in Congress, shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a senator in Congress, in the place of such senator so going out of office, in the following manner: Each house shall openly, by a *viva voce* vote of each member present, name one person for senator in Congress from said State, and the name of the person so voted for, who shall have a majority of the whole number of votes cast in each house, shall be entered on the journal of each house by the clerk or secretary thereof; but if either house shall fail to give such majority to any person on said day, that fact shall be entered on the journal. At twelve o'clock, meridian, of the day following that on which proceedings are required to take place, as aforesaid, the members of the two houses shall convene in joint assembly and the journal of each house

shall then be read, and if the same person shall have received a majority of all the votes in each house, such person shall be declared duly elected senator to represent said State in the Congress of the United States; but if the same person shall not have received a majority of the votes in each house, or if either house shall have failed to take proceedings as required by this act, the joint assembly shall then proceed to choose, by a *viva voce* vote of each member present, a person for the purpose aforesaid, and the person having a majority of all the votes of the said joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected; and in case no person shall receive such majority on the first day, the joint assembly shall meet at twelve o'clock, meridian, of each succeeding day during the session of the legislature, and take at least one vote until a senator shall be elected."

No question as to the meaning of the provisions of the above act governing the successive meetings of the Joint Assembly after the first can arise unless there be doubt as to the meaning of the word "session" as used in the act.

I believe it to be the intention of the statute to use this word as defining the time that elapses from the first meeting of the Legislature to its final adjournment and not to its daily meetings. This apparently is the construction placed upon it by the Legislature of the State of New York in the past. The Joint Assembly of the Legislature of 1881 met every day except Sundays at twelve o'clock, meridian, and voted for Senator, on each day casting at least one ballot and on some days two, until a final selection was made.

I am therefore of the opinion that this law requires the Legislature in Joint Assembly to meet every day except Sundays, at twelve o'clock, meridian, and take at least one vote until a Senator shall be elected.

You further ask whether this provision of the Federal statute is mandatory or merely directory. I believe it to be mandatory.

Yours respectfully,

THOMAS CARMODY,

*Attorney-General.*

(No. 3.)

IN ASSEMBLY, *February 16, 1911.***Message from the Governor Relative to Expenditures for Public Works, Etc.**

STATE OF NEW YORK,

EXECUTIVE CHAMBER,

ALBANY, *February 16, 1911.**To the Legislature:*

You are called upon to solve financial problems of greater magnitude than were ever before presented to the Legislature of this State. The State is entering upon a new era of vast expenditures for great public works. The first great public work undertaken by the State — its canal system begun in 1815 — had been completed and paid for by 1894. For the brief period of three years the State was out of debt. Since 1894 other great public works have been projected which may involve the creation of a State debt of more than \$250,000,000 by 1915, of which less than \$60,000,000 has, as yet, been borrowed and expended.

Since 1894 the State has been authorized to borrow and expend \$160,000,000 for the construction of new public works, and to expend from moneys raised by taxation more than \$30,000,000 for the construction of new public buildings. The State Highway Commission reports that in addition to the \$50,000,000 already authorized the State will need to borrow \$40,000,000 more to complete the system of good roads now projected. The State Water Supply Commission recommends the construction of other public works involving the expenditure of large amounts in the near future. Even after the Barge canal is completed, the expenditures of the State for construction and maintenance will undoubtedly exceed \$25,000,000 per year.

The organization of construction departments, for the efficient and economical expenditure of these vast amounts, is one of the most important problems you are called upon to solve.

A great private corporation, authorizing the expenditure of such large amounts for new construction, would have a thoroughly organized construction department. Its board of directors or

executive committee would adopt methods and plans. But after plans and specifications are adopted and contracts entered into, the responsibility of carrying the plans into execution is placed wholly upon the single head of a construction department, responsible directly to the president.

The experience of the State, with its first great public work, after a long series of experiments and failures, finally solved the problem of an efficient and economical construction department in the State government.

Governor Tilden, in his famous special message of March, 1875, correctly attributed the abuses in the administration of the canal system, to the fact that "the canal commissioners are elected one each year, and it takes three years to make a complete change." In his annual message of 1876, he said:

"The frauds are not the simple case of embezzlement of public moneys, but are to be traced through the complicated work of construction. The present machinery is chaotic and is incapable of acting with efficiency or economy."

The Tilden investigating committee of 1875 concluded its report as follows:

"Finally, the changes made in the laws for the administration of canal affairs should be in the direction of increased accountability on the part of canal officers. Under the present system there is no adequate means of preventing, detecting or correcting abuses. Responsibility is divided into so many fragments as to be often practically lost. Commissioners are elected at different periods, representing different phases of public opinion, and are amenable to the people at different dates. No public enterprise can hope to be successful that is not definitely organized under some known and responsible head."

In accordance with these recommendations of Governor Tilden and the Tilden investigating committee, the Constitution was amended in 1876 by abolishing the three Canal Commissioners and substituting a Superintendent of Public Works, appointed by the Governor, and removable by the Governor at his pleasure. The Superintendent of Public Works was made a member of the

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Canal Board in place of the three Canal Commissioners. Otherwise the Canal Board continued to be composed, as before, of the elective State officers, except the Governor. The Canal Board is thus constituted continues to be responsible for the adoption of plans and specifications for new canal construction. When plans and specifications for a particular piece of work are adopted by the Canal Board, then its jurisdiction over that particular piece of work terminates, except to make changes in the plans and specifications.

Governor Robinson in his annual message to the Legislature of 1877 referred to the constitutional amendment of 1876, as follows:

“Wearied with the frauds, the wasteful and extravagant expenditures which so often attend the management of irresponsible boards, the people have determined to make this great change with the hope of better results.”

Since that time, this constitutional amendment has remained unchanged, and the judgment of those great Governors, Tilden and Robinson, has been vindicated.

I have referred thus at length to the experience of nearly a century for the purpose of calling attention to the fact that the true function of a commission in the construction of new public works has been thoroughly threshed out in this State, by a process which has finally evolved and thoroughly tested the true system.

I respectfully recommend for your consideration the adoption of this system for the construction of other new public works, along substantially the same lines.

There should in all cases be a single executive head responsible for the preparation and submission of plans and for the execution thereof, after adoption by the board or commission.

There should, in all cases, be a deliberative board or commission to consider and determine general methods and adopt detailed plans and specifications.

Existing State officers, whose functions are related to the proposed construction work, should be members of the board or commission, having jurisdiction over the adoption of plans and specifications therefor.

The Superintendent of Public Works should be a member of each deliberative board or commission having jurisdiction over the construction of new public works or buildings. He would thus take official cognizance of all expenditures by the State for new construction, and would be officially interested in the distribution of such expenditures where they are most needed.

The State Engineer should be a member of every board or commission having jurisdiction over the construction of public works involving engineering.

The single responsible head charged with the execution of the plans should be a member of the board or commission, and should prepare plans and specifications to be submitted to the board for its adoption or rejection. But in the execution of the plan, he should not be subject to the control of the board, but should be responsible directly to the Governor by virtue of being subject to suspension or removal by the Governor.

The second great public work undertaken by the State has been the construction and maintenance of good roads. This work was first inaugurated on a large scale in 1906, in pursuance of the authorization by popular vote of a State debt of \$50,000,000 for that purpose.

But in the organization of a construction department for this great public work, the experience of more than half a century was ignored.

The lessons long before learned by costly experience were forgotten and the old mistakes were repeated.

At first the State Engineer was charged with the adoption of plans and with carrying them into execution. After short experience of this defective system, the opposite mistake was made in 1908 of devolving the double responsibility of adopting and executing plans, upon a commission of three persons, on the basis of a six years' term of office for each commissioner, so arranged that the term of office of one member of the commission should expire every two years. The commissioners are removable from office only by the Senate, upon the recommendation of the Governor.

This is one of the most extreme cases of an irresponsible board ever adopted in this State. No single member of

the State Highway Commission is charged with responsibility for the execution of its plans. In the entire work of construction and maintenance there is a division of responsibility. No single commissioner can be called to account for inefficient or extravagant work of the Commission. The work of such a commission must inevitably result, sooner or later, in the same kind of inefficiency, waste and extravagance as resulted from the work of the three Canal Commissioners prior to their abolition by the constitutional amendment of 1876.

There is no reason why the reorganization of the State Highway Commission should be postponed; or why such a reorganization should delay the work of highway improvement. Such work should proceed with the utmost diligence consistent with good work and reasonable economy; and should be equitably distributed throughout the entire State, so that every locality shall, at the earliest possible date, enjoy its due proportion of the benefit of such expenditures.

The people insist, and are entitled to insist, that every reasonable effort shall be used to make the \$50,000,000 build as many miles of improved roads as possible. Unnecessary width of improved roadways, or other extravagant construction in one locality, will inevitably mean no construction whatever in another locality. As many dollars as possible of the amount expended should represent actual labor performed and material placed on the road itself. There should be expended for salaries of officers and engineers, and other preliminaries, the lowest possible amount, consistent with the highest possible efficiency. Such results can be accomplished only by the compact, coherent and efficient organization of a construction department, with a responsible head, answerable to the Governor, as the Governor is answerable to the people.

Upon the foregoing principles it is evident that the State Engineer and Superintendent of Public Works, whose present official duties relate chiefly to the construction, maintenance and operation of public works, should be members of the State Highway Commission; and that the only other member needed to complete an efficient commission would be the executive head. He might well be designated State Superintendent of Highways, and should be the best expert in the construction of good roads, who can be induced



to accept the office. He should be charged with the designation of routes and the preparation of plans and specifications to be submitted to the commission for adoption or rejection.

When plans and specifications are adopted by the Commission, and contracts entered into, the sole responsibility for the execution of the work, in accordance with the plans and specifications, should be upon the State Superintendent of Highways, with his own force of engineers and subordinates directly responsible to him. If the other members of the Commission are dissatisfied with his work, and he refuses to adopt their advice or suggestions, he should not be subject to their control, but they should report their criticisms to the Governor, who would have the power of suspension or removal.

I am undertaking to recommend to the Legislature for its consideration only the general outlines of what I deem the proper system for the reorganization of the Highway Commission. If the Legislature shall approve such general outlines, then it is peculiarly within the province of the Legislature, rather than of the Executive, to perfect the details. Certainly the problem is of such vital importance as to call upon every member of the Legislature to contribute his best judgment to its wise and true solution.

The State is now preparing for the third great system of public works, recommended by the State Water Supply Commission. The present Legislature is expected to authorize the first practical step in actual construction. But before actual construction is begun, a comprehensive plan should be adopted for the conservation, development, regulation and use of the waters in each of the principal watersheds of the State, for the purposes of pure and wholesome water supply, sewerage and sewage disposal, drainage and irrigation, flood prevention and water power development, so that all developments, in each watershed for all such purposes, shall be so co-ordinated and unified as to combine the most economical construction, maintenance and operation, with the most efficient service.

It is evident that the conservation and development of the State's natural resources also should be taken in hand in accordance with the principles already suggested, with a single head responsible for the administration of the department, and with a

deliberative board or commission of which the State Engineer, the Superintendent of Public Works, the State Health Commissioner and the Forest, Fish and Game Commissioner should be members.

The proposed system places the power and the responsibility for the executive work of the State upon the Chief Executive. Many recent experiences have demonstrated that this principle is correct in theory and in practice, and that its violation leads to the scattering of responsibility, to waste and inefficiency. Its adoption by the State is imperatively demanded by the enormous expenditures to which the State is committed in the great works of construction now undertaken. Good administration, national, State or municipal, depends upon focusing responsibility clearly and fully upon individuals. The Governor is held responsible to the whole people for the State administration; he should be able to hold fully responsible to him the officials who administer the various departments.

I am firmly convinced that it has been because the true policy of responsibility has not been strictly adhered to, and because unnecessary boards and commissions have been multiplied, that the expenditures of the State during the past three years have been more than \$8,000,000 in excess of its income, and that the budget of expenditures for the next fiscal year, as made up by the last administration, exceeds \$50,000,000, to be met by an anticipated income of less than \$40,000,000.

JOHN A. DIX,  
*Governor.*

(No. 4.)

IN SENATE, *February 17, 1911.*

**Message from the Governor Relative to Bills Pending in Congress**

STATE OF NEW YORK,

EXECUTIVE CHAMBER,

ALBANY, *February 17, 1911.*

*To the Legislature:*

Citizens of this State have called my attention to two bills now pending in Congress, one, known as the Alexander bill, relating

to the use of hydraulic power of the Niagara river, and the other known as the Oliver bill, confirming a grant described in the act of the Legislature of May 27, 1907, for hydraulic development in the St. Lawrence river by the Long Sault Development Company.

An examination of these bills and consideration of the grave importance to the State of New York of the questions involved, have led me to write to the appropriate committees of Congress letters of which copies follow. The safeguarding of the interests of this State in the conservation of its natural resources and navigation is so important that I recommend that both these bills receive your careful consideration, and that your conclusions be communicated through the Senators and Representatives from this State to the national Congress. In view of the nearness of the final adjournment of Congress, prompt action is desirable in making known your views on these bills.

JOHN A. DIX,  
*Governor.*

*February 16, 1911.*

HON. D. S. ALEXANDER, *Chairman, Committee on Rivers and Harbors, House of Representatives, Washington, D. C.:*

DEAR SIR: The bill known as the Alexander power bill, relating to the use of the hydraulic power of the Niagara river, now pending before your committee, involves interests of very great importance to the State of New York. The act which the bill would amend, usually known as the Burton Act, permitted grants to be made by the Secretary of War to individuals, companies or corporations for diversion of water for the creation of power which then were, in 1906, actually using such water for that purpose; but that act contained a restriction limiting future use to not over 8,600 cubic feet per second to any one individual, and to not exceeding 15,600 cubic feet per second to all users of water from the Niagara river or from the Erie canal.

The western level of the Erie canal being fed from the waters of Lake Erie, a certain quantity of its flow on reaching the eastern end of that level becomes surplus and available for hydraulic purposes. Any use of that surplus should be in conjunction with continuous and unhampered supervision on the part of the State, in order to preserve the navigation interests of that canal. In

1906 there were several users of river water at the city of Niagara Falls who were independent of each other in interest, and there were several users at Lockport of surplus canal waters which had their source in Lake Erie, and who used under the terms of a permit previously granted by the State. That permit, originally made in 1826, was revoked by the Superintendent of Public Works of the State, and any other disposition of that surplus to arise on completion of the canal improvement now in progress is being held in abeyance until after legislation shall be enacted by the State with reference thereto.

I believe there is no instance occurring prior to 1906 of any attempt on the part of the Federal government to claim any jurisdiction to regulate the use of the waters of the Erie canal after the same have once entered the State's canal system. The Federal act of 1906 did not allow the issuing of permits to any single interest then existing or thereafter to come into existence, whereby use of all the water which may be taken from the Niagara river for power purposes could come under the control of a single interest, and any injurious monopoly in the product of that power was thereby guarded against. Under the Alexander bill, if a consolidation of interest between the present users at Niagara Falls already has, or shall hereafter occur, the whole of the 20,000 cubic feet per second authorized by the treaty of May 13, 1910, with Great Britain, could be granted to a single user or to a combination of users. Since electric current has become the most valuable product of hydraulic power, Niagara power will no doubt continue to be used as it now is for the development of that current, and oppressive results may be anticipated to follow from any unregulated monopoly thereover.

The Burton Act treated the use of Erie canal surplus, arising on the canal levels fed by Lake Erie, for power purposes, as coming within the right of the Federal government to license. The Alexander bill now proposes to reassert that jurisdiction in the Federal government. That claim on the part of the Federal government is unsound as well as unjust to the State of New York. The Erie canal lies wholly within this State and was built at the sole expense of New York, with the acquiescence of the Federal Congress at the time, and it has since been maintained at vast expense to this State but with great benefit to the country at large.

Assuming but not conceding that Congress as against the State could now justly interfere and place a limit upon the amount of water from the Niagara river to feed the Erie canal, nevertheless, such water having once entered the canal, passes into an artificial channel wholly within the State and within its natural jurisdiction. The treaty referred to undertakes to place no limit whatever nor to require the Federal government to limit the amount of water which may be drawn from Lake Erie for the purposes of existing canals in the State of New York. Who shall use the surplus of the Erie canal when the water reaches Lockport or other points, even though the source thereof was Lake Erie, and under what restrictions and on what terms, is a matter which should rest with the State of New York alone to determine.

In my opinion, the Alexander bill should be so amended as to prevent a monopoly in the product of the power affected, to remove unnecessary restrictions upon the number of those persons or corporations located upon sites available for use of power, and which may desire to share in its use, and so as to leave New York State with the sole and undisputed jurisdiction to control the use of Erie canal waters at all points within her own boundaries. The question of the transmission of power originating in the natural waters of the State of New York to points without the State, to the prejudice of New York and perhaps to the prejudice of the United States as well, suggests itself.

I am informed that the terms of the Alexander bill will operate to exclude one company already incorporated by the State from any participation in the power water which may be granted. I find that when the State authorized on its part some years ago the use of the river water for commercial purposes, no limitations were imposed for the protection of the public interest, or consideration exacted for the benefits to accrue to the users.

In view of the importance of this subject and because of the impropriety of my assuming to dispose of it on behalf of the State without consultation with the Legislature, I intend to submit the subject to the State Legislature and I request that congressional action on the Alexander bill be delayed until the interests and desires of the State may be properly determined and made known.

Respectfully yours,

JOHN A. DIX.

February 16, 1911.

Hon. WILLIAM P. FRYE, *Chairman, Committee on Commerce,  
United States Senate, Washington, D. C.:*

DEAR SIR: My attention has been called to Senate bill No. 10558, introduced by Senator Oliver of Pennsylvania, which carries congressional approval of hydraulic development in the St. Lawrence river by the Long Sault Development Company, chartered on May 27, 1907, by the Legislature of New York.

Congress will, of course, appreciate the very careful consideration which this proposition demands in view of its relation to both a State and international boundary stream, and a stream of primary importance to navigation as well as one whose use has been specially guarded and regulated by international treaty. The State of New York is, from its location, more directly interested than any other State in the preservation of St. Lawrence river navigation, and it is the only State with ports on that river.

In view of the superior jurisdiction of the Federal government, and of its superior opportunities through its appropriate departments to pass upon problems affecting the navigation of this river, the legislative action of New York in regard to this proposed hydraulic development very properly and expressly and very clearly made concurrent action of the Federal government essential to the creation of the rights in the river defined in the State act of 1907. While the State of New York in that act deferred wholly to the judgment which should be passed by the Federal authorities on what would or would not injure, or perhaps improve, the river at this point for navigation uses, it remains the duty of the authorities of this State to scrutinize any particular Federal bill which by its terms or by its necessary effect shall give vitality to the very great powers sought by the Long Sault Development Company. The State act expressly recognizes the interest of the State in the proper settlement of all questions affecting the navigation of the stream.

In my opinion, the pending bill fails to cover properly the interests of navigation. While a survey of that part of the channel to be affected is provided for in the bill, the survey should, in my opinion, be made prior to final action by Congress. Official approval by the Secretary of War, and if possible by the Dominion

or other necessary authorities, of any specific plans for construction work should be secured before instead of after final action by Congress, and I would suggest that procedure in place of the course proposed by the bill.

The possession by this company of the enormous powers defined in the act of the State Legislature would embrace both the State and Federal authorities in negotiations with our Canadian neighbors concerning this matter, and embarrass efforts to conserve the interests of navigation and of other property owners whose holdings would lie within the reach of the impounded flood waters and ice of this great river.

This proposed development and the development of the Niagara river are the only two instances involving State boundary waters and both had their origin in special State legislation, in each case as it seems to me, without full appreciation of the nature and extent of various phases of public interest to be immediately or ultimately affected. As in the Niagara river case, which is now involved in another bill pending before Congress, so in this case, I do not feel justified in speaking alone for New York State at this time, but intend to call the bill to the notice of the State Legislature, which is now in session, for consideration. Pending an expression of views by our Legislature, I request through you that action by Congress on the Oliver bill may be suspended.

Very respectfully yours,

JOHN A. DIX.

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(No. 5.)

AN ACT to amend the public officers law, in relation to vacations for persons in the service of the state and of the several civil subdivisions thereof.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section seventy-one, chapter six hundred and eighty of the laws of nineteen hundred and ten, entitled "An act in relation to public officers, constituting chapter forty-seven of the consolidated laws," is hereby amended to read as follows:



§ 71. Vacations for employees of the state and the several civil subdivisions thereof. The executive officers of every public department, bureau, commission, or board of the state and of each county, city or other civil division thereof [are authorized and empowered to] *shall* grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed.

§ 2. This act shall take effect immediately.

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(No. 6.)

Amend Assembly bill, printed number 221, as follows:

Strike out all of section one and substitute the following:

Section 1. The sum of one million and six hundred thousand dollars (\$1,600,000), to become available immediately, is hereby appropriated, payable out of moneys realized from bonds issued in accordance with the provisions of chapter four hundred and sixty-nine of the laws of nineteen hundred and six, as amended by chapter seven hundred and eighteen of the laws of nineteen hundred and seven. The money hereby appropriated shall be expended according to the provisions of article six of the highway law for the construction and improvement of that part of state route number twenty-five as defined by section one hundred and twenty of said highway law from its commencement on route number twenty-eight extending in Oneida county to the Herkimer county line, and that part of route number twenty-five from Long Lake to Riparius, and also that part of route number twenty-five from Lake George to Chestertown, and on route number twenty-two from Whitehall to Cambridge, and also on route number twenty-two, as defined by said section of the highway law, north of Schroon Lake village, not heretofore constructed or for which

money is not already available, in such manner as to complete a system of stone road from New York city to Rouses Point; but in case the appropriation hereby made shall be insufficient to complete said system of stone road as contemplated, then the highway commission shall expend the same in constructing and improving such portions of said road as in its judgment are in most need of construction and improvement. No county in which roads are improved under this chapter shall participate in the future annual appropriation of funds for the improvement of state roads until such time as the counties not participating in the funds provided by this chapter shall have received such amount of improvement as will equalize the mileage.

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(No. 7.)

AN ACT to amend the agricultural law, in relation to the adulteration of food products.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section two hundred and one of chapter nine of the laws of nineteen hundred and nine, entitled "An act in relation to agriculture, constituting chapter one of the consolidated laws," is hereby amended by inserting therein, after subdivision six thereof, four new subdivisions, to be subdivisions seven, eight, nine and ten, to read as follows:

7. *If it consists of any slaughtered poultry, wild or domestic fowl, that has not been thoroughly eviscerated within twenty-four hours after its slaughter.*

8. *If it consists of any poultry or other fowl that has been in cold storage, or otherwise preserved for a longer period than nine months from the date of its slaughter and evisceration.*

9. *If it consists of any poultry, wild or domestic fowl, that may be in any storage warehouse, or that has been in cold storage or otherwise preserved, that shall afterward be possessed, offered or exposed for sale as food, that was not eviscerated in the presence and under the direction of a qualified inspector duly appointed by the state department of health, and who may be a qualified member*

*of any local board of health or health organization, or any qualified local citizen who has been duly commissioned for such duty by the state department of health; or that does not bear attached thereto a tag stamped or written thereupon the date of its evicercation, inspection, acceptance and signature of such inspector.*

*10. If it consists of any poultry, wild or domestic fowl, that shall have been rejected at the time of its inspection, as provided for by subdivision nine, for the reason of its being diseased, or exposed to fecal or any other contamination during evicercation without immediate and effectual cleansing from such contamination.*

§ 2. This act shall take effect immediately.

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(No. 8.)

AN ACT to amend the insurance law by providing that all agents of persons, associations and corporations, authorized to do an insurance business in this state, and all insurance brokers, shall procure a certificate of authority from the superintendent of insurance.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section fifty of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," is hereby amended to read as follows:

§ 50. Agent's certificate of authority. No person, partnership or corporation shall act as agent for any [foreign insurance corporation] underwriter, incorporated or unincorporated, hereinafter called "insurer," in the transaction of any business of insurance within this state, or negotiate for or place risks for any such [corporation] insurer, or in any way or manner aid such [corporation] insurer in effecting insurances, or otherwise, in this state, unless such [corporation] insurer shall have fully complied with the provisions of this chapter.

Every such agent shall, annually, on the first day of January, or within six months thereafter, procure a certificate of authority

from the superintendent of insurance, who shall file in his office evidence of the issuance of such certificate to the agent aforesaid. *No person, association or corporation authorized to transact any insurance business within this state shall employ any agent to solicit insurance or issue policies for him or it unless such agent has a certificate of authority as required by this section.*

*Such certificate shall be revoked by the superintendent of insurance if, after due investigation, and a hearing either before himself, or any salaried employee of the insurance department, whose report he may adopt, he determines that the holder of such certificate has violated any provision of this chapter, and any person whose certificate of authority is so revoked, or any partnership of which he is a member, or any corporation of which he is an officer, shall not be entitled to any certificate or license under this chapter for a period of one year thereafter and if any such certificate, held by partnership or corporation, is so revoked, no member of the partnership or officer of the corporation shall be entitled to any such certificate or license for the same period of time.*

Any person, partnership or corporation violating the provisions of this section shall forfeit to the people of the state the sum of five hundred dollars for the first offense, and an additional sum of one hundred dollars for each month during which any such person, partnership or corporation shall continue to act in violation of this section. This section shall not apply to the agents of life insurance corporations, or the agents of [corporations] insurers transacting business under the provisions of article five, six, seven and nine of this chapter.

§ 2. Said chapter is further amended by inserting therein two new sections, to be sections fifty-a and fifty-b, and to read as follows:

§ 50-a. *Business to be accepted only from brokers with certificates of authority. No person, association or corporation, authorized or permitted to do an insurance business within this state, or agent thereof, shall pay any commission or any other compensation to any person not a duly authorized agent of such person, association or corporation for services in obtaining or placing any such insurance upon property or risks located within this state, or against any liability, casualty, accident or hazard*

that may arise or occur therein, unless such person shall have first procured from the superintendent of insurance a certificate of authority to act as broker to solicit such insurance as provided by this section.

No person, partnership or corporation, in cities having a population of four hundred thousand and upwards, shall act as broker in the solicitation or procurement of applications for such insurance, or receive for services in obtaining or placing such insurance, any commission or other compensation from any person, association or corporation authorized or permitted to do an insurance business in this state, or agent thereof, without first procuring a certificate of authority so to act from the superintendent of insurance, which must be renewed annually on the first day of January, or within six months thereafter. No such certificate shall be valid however, in any event, after the first day of July of the year following the issuing of the same. The fee to be paid to the said superintendent by the applicant at the time application is made shall be one hundred dollars. Such certificate shall be revoked by the superintendent if, after due investigation and a hearing, either before himself, or any salaried employee of the insurance department, whose report he may adopt, he determines that the holder of such certificate has violated any provision of this chapter and any person whose certificate of authority is so revoked, or any partnership of which he is a member, or any corporation of which he is an officer, shall not be entitled to any certificate or license under this chapter for a period of one year thereafter, and if any such certificate held by a partnership or corporation is so revoked, no member of the partnership or officer of the corporation shall be entitled to any such certificate or license for the same period of time.

Any person, partnership or corporation violating the provisions of this section shall forfeit to the state the sum of five hundred dollars.

This section shall not apply to life insurance, marine and transportation insurance and contracts connected therewith, nor to insurance written or contracts made by persons, associations and corporations authorized to do business under articles five, six, seven and nine of this chapter,

§ 50-b. *Before any certificate of authority shall be issued by the superintendent of insurance, under section fifty-a of this chapter, to persons, partnerships or corporations applying therefor, there must be filed in the office of the said superintendent a written application for such certificate which must be set forth, [a] the name and address of the applicant, and if the applicant be a partnership, the names and addresses of each member thereof, and if a corporation the names and addresses of each of its officers; [b] whether any certificate of authority as agent or broker has been issued theretofore by the superintendent of insurance to the applicant, and, if the applicant is an individual, whether any such certificate has been issued theretofore to any partnership of which he was a member, or to any corporation of which he was or is an officer and, if the applicant is a partnership, whether such certificate has been issued theretofore to any member thereof, and if the applicant is a corporation, whether any such certificate has been issued theretofore to any person who at the time application is made is an officer of such corporation; [c] the business in which the applicant has been engaged for the year next preceding the date of the application and if employed by another, the name or names of such employer or employers; [d] that the applicant has been or is engaged or intends to engage, in good faith, principally in the insurance brokerage business or that he conducts or intends to conduct such business in connection with a real estate agency or brokerage business, and is not a salaried employee of any person, partnership or corporation on whose property or risks he receives or expects to receive applications for insurance, and does not make the application for the certificate of authority for the sole purpose of securing commissions on insurance written on his own property or risks.*

*Such application must be signed and verified by the applicant, and if made by a partnership, by each member thereof, and if by a corporation, by any proper officer thereof.*

§ 3. This act shall take effect January first, nineteen hundred and twelve.

(No. 9.)

AN ACT to amend section fifteen of the personal property law relating to trust funds.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section fifteen of the personal property law, constituting chapter forty-one of the consolidated laws, is hereby amended to read as follows:

§ 15. [When income of trust fund is] *Personal property not alienable in certain cases.* 1. The right of the beneficiary to enforce the performance of a trust to receive the income of personal property, and to apply it to the use of any person, can not be transferred by assignment or otherwise. But the right and interest of the beneficiary of any other trust in personal property may be transferred. *Provided, however, that when the proceeds of a life insurance policy are left with the insurance company under a trust or other agreement, the benefits accruing thereunder shall not be transferable, not subject to commutation or incumbrance, nor to legal process except in an action to recover for necessities, if the parties to the trust or other agreement so agree.*

2. The provisions of this section shall not impair or affect any rights existing on March twenty-fifth, nineteen hundred and three[.], nor impair or affect the rights of creditors under section fifty-two of the Domestic Relations Law.

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(No. 10.)

AN ACT to provide for certain improvements in the channel and banks of the Mohawk river and West Canada creek, made necessary by the building of the barge canal, and making an appropriation therefor.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The superintendent of public works is hereby authorized and directed to build a new channel for the West Canada creek, from some point thereon, to be determined by the state en-

gineer and surveyor, to the Mohawk river, at a point in such river, to be determined by said state engineer and surveyor, easterly and northerly from the barge canal embankment, and to do any dredging that appears to the said superintendent to be necessary in the West Canada creek, and in such river; such new channel to be built and such dredging to be done in such manner that the waters of said creek may thereby discharge as freely into said river, and said river possess the same capacity for carrying away the waters of said creek, as the same was discharged and carried away before such canal embankment was constructed.

§ 2. Said improvement shall be made under the direction of the superintendent of public works upon plans to be furnished by the state engineer and surveyor, but no portion of such appropriation shall be available, except for necessary plans, specifications and advertising, until a contract for the completion of the work herein authorized, within the appropriation herein provided for, shall have been duly entered into by the superintendent of public works with a responsible bidder, and such contract filed with the comptroller.

Said superintendent may enter upon, take and appropriate any and all lands, real estate and property necessary for the work directed to be completed by this act, upon compensation to the owners therefor or for injuries thereto, in the same manner that lands are authorized by law to be acquired, or damages fixed, for canal purposes.

§ 3. The sum of seventy-five thousand dollars (\$75,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, for carrying out the purposes expressed in the foregoing provisions of this act, payable by the state treasurer on the warrant of the comptroller, upon vouchers audited by the superintendent of public works, but none of the moneys hereby appropriated shall be available until the village of Herkimer shall release the state of New York of and from all claims for damage which may have occurred to said village of Herkimer, on account of overflow of water from the West Canada creek, or which may hereafter result or be alleged to result to said village of Herkimer on account of such overflow of water from said West Canada creek.

§ 4. This act shall take effect immediately.



(No. 11.)

AN ACT extending a right and privilege heretofore granted by the state to the erection and maintenance of a dam across the Susquehanna river.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. All the rights and privileges heretofore granted to Samuel Crafts by chapter seventy-one of the laws of eighteen hundred and thirteen, and as granted and extended to John Cockett and John Cockett, junior, by chapter one hundred and twenty-five of the laws of eighteen hundred and thirty-five, and as granted and extended to William M. Clinton, his heirs and assigns by chapter five hundred and fifty-seven of the laws of eighteen hundred and sixty-five, are hereby granted and extended to The Clinton Mills Power Company, and its assigns for the term of fifty years from the nineteenth day of March, nineteen hundred and twelve. *Upon condition that said Clinton Mills Power Company shall pay into the treasury of the state at the following rates upon the average amount of electrical horsepower generated during each year under the authority of this act, that is to say: Upon the average amount of electrical horsepower, at the rate of seventy-five cents per horsepower, said rate of seventy-five cents per horsepower shall be readjusted by the comptroller of the state once in every five years during the said term of fifty years. In no case shall the sum payable in any one year be less than one hundred and fifty dollars. In determining the average amount of electrical horsepower generated and the average amount of mechanical horsepower generated or developed in any year, for the purpose of determining the amount to be paid to the state, no day nor hour during which the works of said company are not in substantial operation shall be included in the total time for which such average is to be determined as the average for the year. Said amounts for each year shall be payable on or before the first day of February in each year, and within ten days before the same shall become payable the said corporation shall deliver to the state engineer and to the state treasurer a verified statement showing the average amount of electrical horsepower generated, and the average amount*

*of mechanical horsepower generated and not transmuted into electrical horsepower, by said corporation under the authority hereby granted, during the year ending on the thirty-first day of December next preceding the date of making such statement. The books or other records of said corporation, showing the amount of power so generated, and its works and plant shall at all times be open to inspection and examination by the state engineer for the purpose of verifying or disputing the correctness of any such statement. The state engineer may prescribe the form of records to be kept by said corporation, and the character of measuring instruments and devices to be used and a reasonable standard of the accuracy thereof and the methods by which said accuracy is to be determined. Said corporation shall keep such records and shall provide and use such instruments and devices and have the same tested accordingly. If any dispute shall arise in respect to the amount payable for any year at the rates aforesaid the court of claims shall have jurisdiction to hear and determine the same. In case the said corporation shall fail to pay any amount due hereunder within sixty days after the same is payable as herein provided, in addition to any other remedies which may exist by law, the rights and privileges hereby granted may be forfeited.*

§ 2. The said The Clinton Mills Power Company and its successors and assigns, upon complying with all the provisions of section one of this act, are hereby authorized to rebuild, maintain and keep up the dam across the Susquehanna river at the place mentioned in the acts aforesaid, not exceeding its present height of ten feet, as authorized by said act, and provided that such height shall not cause the water in said river to set back so as to obstruct or injure the mills now operating higher up on said stream.

§ 3. This act shall be deemed and construed to be a public act, and the land flowed with water as herein provided is hereby declared to be for public use.

§ 4. This act shall take effect immediately.

(No. 111½.)

AN ACT — Making appropriations for the support of government.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The several amounts named in this act are hereby appropriated and authorized to be paid from the several funds indicated, to the respective public officers, and for the several purposes specified, for the fiscal year beginning on the first day of October, in the year nineteen hundred and eleven, namely:

### FROM THE GENERAL FUND.

#### EXECUTIVE.

##### EXECUTIVE OFFICE.

For salaries of the:

governor, ten thousand dollars;	\$10,000 00
lieutenant-governor, five thousand dollars;	5,000 00
secretary to the governor, four thousand dollars;	4,000 00
counsel to the governor, five thousand dollars;	5,000 00
and for his actual and necessary traveling expenses in the performance of his official duties, five hundred dollars, or so much thereof as may be necessary;	500 00
military secretary, two thousand dollars;	2,000 00
keeper and recorder of legislative bills, to which position the military secretary may be assigned, fifteen hundred dollars;	1,500 00
executive legal assistance, four thousand five hundred dollars;	4,500 00
executive stenographer, two thousand five hundred dollars;	2,500 00
employees according to grade:	
seventh grade, two employees, three thousand dollars;	3,000 00
sixth grade, two employees, two thousand four hundred dollars;	2,400 00
fifth grade, one employee, nine hundred dollars;	900 00
and for temporary and other services, one thousand dollars, or so much thereof as may be necessary.	1,000 00

For necessary expenses including furniture, books, binding, blanks, printing, messages, traveling and other incidental expenses, seven thousand dollars, or so much thereof as may be necessary.	7,000 00
For postage and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For incidental expenses of the executive mansion, rent of stable and equipage, three thousand dollars, to be paid by the comptroller on the certificate of the governor or the secretary to the governor.	3,000 00

## NOTARIAL BUREAU.

For salaries of the:	
appointment clerk, twenty-five hundred dollars;	2,500 00
employees according to grade:	
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, one employee, one thousand seven hundred dollars;	1,700 00
seventh grade, one employee, fifteen hundred dollars;	1,500 00
and for temporary and other services and expenses, three thousand dollars, or so much thereof as may be necessary.	3,000 00

**ADMINISTRATIVE.**

## OFFICE OF THE SECRETARY OF STATE.

For salaries of the:	
secretary of state, six thousand dollars;	6,000 00
deputy secretary of state, four thousand dollars;	4,000 00
chief clerk, three thousand five hundred dollars;	3,500 00
examiner of corporations, two thousand five hundred dollars;	2,500 00
land clerk, three thousand dollars;	3,000 00
employees according to grade:	
tenth grade, one employee, two thousand two hundred dollars;	2,200 00
ninth grade, one employee, two thousand dollars;	2,000 00

eighth grade, two employees, three thousand four hundred dollars;	3,400 00
seventh grade, five employees, nine thousand three hundred dollars;	9,300 00
sixth grade, eleven employees, twelve thousand dollars;	12,000 00
fifth grade, fifteen employees, thirteen thousand five hundred dollars;	13,500 00
fourth grade, five employees, three thousand six hundred dollars;	3,600 00
third grade, three employees, one thousand eight hundred dollars;	1,800 00
second grade, one employee, four hundred eighty dollars;	480 00
For the purpose of complying with the provisions of sections one hundred and fifty-five, one hundred and sixty-seven, four hundred and eighty-five, one hundred and eighty-two and three hundred and twenty of chapter twenty-two of the laws of nineteen hundred and nine, being the election law, eighteen thousand dollars.	18,000 00
For the personal expenses and disbursements of the secretary of state and his deputy in the performance of their official duties, five hundred dollars, or so much thereof as may be necessary.	500 00
For furniture, books, binding, blanks, messages and other necessary incidental office expenses, seven thousand dollars, or so much thereof as may be necessary.	7,000 00
For postage and transportation of letters, official documents, session laws, election laws and blanks, legislative documents, and other matter sent by express or freight, including boxes or covering for same, seven thousand dollars, or so much thereof as may be necessary.	7,000 00
For carrying out the provisions of article eleven of the highway law in relation to motor vehicles, including number plates, badges, furniture, books, stationery, printing, binding, traveling expenses, postage and transportation of letters, documents, number plates,	

badges and other matter sent by mail, express or freight, boxes and other methods of packing, traveling expenses of employees, maintenance and storage of automobiles, rent and maintenance of various branch bureaus throughout the state and all other expenses incidental to the maintenance of the automobile bureau and the salaries of employees, two hundred and forty thousand dollars, of which not more than one hundred ten thousand dollars shall be expended for salaries of employees.

240,000 00

## OFFICE OF THE COMPTROLLER.

For salaries of the:

comptroller, eight thousand dollars;	8,000 00
deputy comptroller, five thousand dollars;	5,000 00
deputy comptroller, four thousand five hundred dollars;	4,500 00
warrant clerk and deputy comptroller, four thousand five hundred dollars;	4,500 00
assistant warrant clerk and deputy comptroller, four thousand dollars;	4,000 00
secretary to the comptroller, four thousand dollars;	4,000 00
stenographer to the comptroller, one thousand two hundred dollars;	1,200 00
stenographer to the deputy comptroller, one thousand one hundred dollars.	1,100 00

## FINANCE BUREAU.

For salaries of the:

voucher clerk, three thousand five hundred dollars;	3,500 00
document clerk, three thousand dollars;	3,000 00
employees according to grade:	
eleventh grade, two employees, five thousand dollars;	5,000 00
ninth grade, two employees, four thousand dollars;	4,000 00
seventh grade, six employees, nine thousand dollars;	9,000 00
sixth grade, two employees, two thousand four hundred dollars;	2,400 00

third grade, two employees, twelve hundred dollars.	1,200 00
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## AUDIT BUREAU.

For salary of the auditor to the comptroller, four thousand dollars.	4,000 00
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For salaries of the assistants to the auditor to the comptroller, and for the necessary traveling expenses of the auditor and assistants, five thousand dollars, or so much thereof as may be necessary.	5,000 00
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## LAND TAX BUREAU.

For salaries of the:

chief clerk, four thousand dollars;	4,000 00
employees according to grade:	
ninth grade, three employees, six thousand one hundred dollars;	6,100 00
eighth grade, two employees, three thousand six hundred dollars;	3,600 00
seventh grade, five employees, seven thousand five hundred dollars;	7,500 00
sixth grade, one employee, one thousand two hundred dollars;	1,200 00
fifth grade, two employees, eighteen hundred dollars.	1,800 00

## TRANSFER TAX BUREAU.

For salaries of the:

chief clerk, three thousand dollars;	3,000 00
employees according to grade:	
twelfth grade, one employee, four thousand dollars;	4,000 00
eleventh grade, one employee, two thousand seven hundred dollars;	2,700 00
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, three employees, five thousand two hundred and fifty dollars.	5,250 00
seventh grade, four employees, six thousand dollars;	6,000 00
sixth grade, three employees, three thousand four hundred dollars;	3,400 00

fifth grade, four employees, three thousand six hundred dollars.	3,600 00
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## CORPORATION TAX BUREAU.

## For salaries of the:

chief clerk, four thousand dollars;	4,000 00
employees according to grade:	
eleventh grade, one employee, three thousand dollars;	3,000 00
tenth grade, one employee, two thousand two hundred dollars;	2,200 00
ninth grade, three employees, six thousand dollars;	6,000 00
eighth grade, three employees, five thousand four hundred dollars;	5,400 00
seventh grade, three employees, four thousand four hundred dollars;	4,400 00
sixth grade, four employees, four thousand eight hundred dollars;	4,800 00
third grade, one employee, six hundred dollars.	600 00

MORTGAGE TAX, MUNICIPAL ACCOUNTS AND COURT AND TRUST FUND  
EXAMINATIONS, AND DETECTIVE LICENSES.

## For salaries of the:

chief accountant, three thousand dollars;	3,000 00
employees according to grade:	
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, one employee, one thousand five hundred dollars;	1,500 00
fifth grade, one employee, nine hundred dollars.	900 00

For services of examiners in the examination of the accounts of the several counties, cities of the second and third classes and incorporated villages of the state, pursuant to article three of chapter twenty-nine of the laws of nineteen hundred and nine, being the municipal corporations law, thirty thousand dollars, or so much thereof as may be necessary.

30,000 00

For actual and necessary traveling expenses of examiners in the performance of their official duties, fifteen thousand dollars, or so much thereof as may be necessary.

15,000 00



For services of examiners in the examination of the accounts of the several county treasurers of the state, as required by section forty-three of chapter twenty-three of the laws of nineteen hundred and nine, being the executive law, twenty-four thousand dollars, or so much thereof as may be necessary.	24,000 00
For actual and necessary traveling expenses of examiners in the performance of their official duties, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For printing and incidental expenses of the Bureau, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For payment of an agent or agents, and for their necessary expenses in the enforcement of article seven, chapter twenty-five, laws of nineteen hundred and nine, being the general business law, four thousand dollars, or so much thereof as may be necessary, to be paid from the moneys received under the provisions of said act.	4,000 00
STOCK TRANSFER TAX BUREAU.	
For salaries of the:	
chief clerk, three thousand five hundred dollars;	3,500 00
employees according to grade:	
sixth grade, one employee, one thousand two hundred dollars;	1,200 00
fourth grade, one employee, seven hundred and twenty dollars.	720 00
For services of examiners and detectives, forty-four thousand two hundred dollars, or so much thereof as may be necessary.	44,200 00
For actual and necessary traveling expenses of the examiners and detectives in the performance of their official duties, for dies, plates, and printing necessary for the manufacture of stamps and for stationery, books, blanks and other necessary incidental expenses, twenty-six thousand dollars, or so much thereof as may be necessary.	26,000 00

## LICENSE BUREAU.

For salaries of employees according to grade:

eighth grade, one employee, one thousand seven hundred dollars;	1,700 00
seventh grade, one employee, one thousand three hundred dollars;	1,300 00

## MISCELLANEOUS.

For the personal expenses and disbursements of the comptroller, in the performance of his official duties, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For actual and necessary traveling expenses of the deputies to the comptroller in the performance of their official duties, one thousand two hundred and fifty dollars, or so much thereof as may be necessary.	1,250 00
For messenger and other service:	
fifth grade, one employee, nine hundred dollars;	900 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, three hundred sixty-five dollars.	365 00
For temporary clerical service, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For furniture, books, binding, blanks, printing, messages and other necessary incidental office expenses, including rent of New York city office, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For compensation and expenses of counsel employed by the comptroller in legal actions or proceedings, for expert services in the matter of investigations, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For postage and transportation of letters, official documents, and other matters sent by express or freight, including boxes or covering for same, eight thousand dollars, or so much thereof as may be necessary.	8,000 00

## OFFICE OF THE TREASURER.

## For salaries of the:

treasurer, six thousand dollars;	6,000 00
deputy treasurer, four thousand dollars;	4,000 00
accountant and transfer officer, two thousand seven hundred dollars;	2,700 00
cashier, two thousand seven hundred dollars;	2,700 00
check clerk, two thousand seven hundred dollars;	2,700 00
employees according to grade:	
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, three employees, four thousand three hundred dollars;	4,300 00
sixth grade, three employees, three thousand and eighty dollars;	3,080 00

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes and covering for same, nine hundred dollars, or so much thereof as may be necessary. 900 00

For furniture, books, blanks, binding, printing and other incidental office expenses of the treasurer, two thousand five hundred dollars, or so much thereof as may be necessary. 2,500 00

For the actual and necessary traveling expenses of the treasurer, in the performance of his official duties, six hundred dollars, or so much thereof as may be necessary. 600 00

## ATTORNEY-GENERAL.

## For salaries of the:

attorney-general, ten thousand dollars;	10,000 00
for such deputies as may be appointed by the attorney-general, pursuant to the provisions of the executive law, seventy thousand dollars;	70,000 00
assistant to the deputy, three thousand five hundred dollars;	3,500 00
land and tax clerk, three thousand dollars;	3,000 00

employees according to grade:

ninth grade, two employees, four thousand dollars; 4,000 00

eighth grade, one employee, one thousand eight hundred dollars; 1,800 00

seventh grade, four employees, six thousand dollars: 6,000 00

sixth grade, five employees, six thousand dollars; 6,000 00

fifth grade, five employees, four thousand five hundred dollars; 4,500 00

fourth grade, two employees, one thousand four hundred and forty dollars; 1,440 00

third grade, one employee, six hundred dollars; 600 00

second grade, one employee, four hundred and twenty dollars; 420 00

for the personal expenses and disbursements of the attorney-general in the performance of his official duties, two thousand four hundred dollars; 2,400 00

for furniture, books, binding, blanks, printing, messages, postage and the transportation of letters, documents, matter sent by express or freight, including boxes or covering for the same and other incidental office and traveling expenses, five thousand dollars, or so much thereof as may be necessary. 5,000 00

#### NEW YORK CITY BUREAU.

For the salaries:

of such deputies as may be appointed by the attorney-general, pursuant to the provisions of the executive law, twenty-two thousand dollars; 22,000 00

employees according to grade:

seventh grade, two employees, three thousand dollars; 3,000 00

sixth grade, two employees, two thousand four hundred dollars; 2,400 00

fifth grade, three employees, two thousand seven hundred dollars; 2,700 00

third grade, one employee, six hundred dollars. 600 00

For the payment of counsel, attorneys, deputies and special deputies, process servers, stenographers, investigators and employees, employed in, attending to,

investigating and prosecuting cases arising under the election law in the city of New York, together with any other expenses incidental to the handling of said cases, ten thousand dollars or so much thereof as may be necessary.

10,000 00

For office rent, furniture, books, binding, blanks, postage, messages, stenographers, process servers and other additional office expenses, five thousand dollars, or so much thereof as may be necessary.

5,000 00

Said New York city bureau shall keep a docket, in which shall be entered a record of all cases and proceedings pending, of civil or criminal nature, in which the people of the state of New York, or any officer or department of the state, shall be a party, represented by the said New York city deputy or his assistant or special counsel, and shall make a report daily of his proceedings in all such cases and proceedings to the attorney-general.

The said New York city deputy shall have, under the direction of the attorney-general, immediate charge of all matters referred to in section sixty-seven of the executive law, the agricultural law, and all matters in which the attorney-general represents the state, arising or existing within the limits of New York city, and all fees, costs and fines collected by the New York city deputy or his assistants, shall, on the day of the receipt thereof, be transmitted to the attorney-general, who shall deposit the same with the treasurer of the state of New York.

#### CIVIL SERVICE COMMISSION.

For salaries of the:

civil service commissioners, nine thousand dollars.

9,000 00

For actual and necessary expenses of the commissioners in the performance of their official duty: of the president, seven hundred dollars, and of the other commissioners, nine hundred dollars, or so much thereof as may be necessary.

1,600 00

## ADMINISTRATION DIVISION.

## For salaries of the:

secretary, four thousand dollars;	4,000 00
assistant secretary, two thousand dollars;	2,000 00
chief clerk, one thousand five hundred dollars;	1,500 00
employees according to grade:	
sixth grade, one employee, one thousand two hundred dollars;	1,200 00
fifth grade, one employee, nine hundred dollars;	900 00
fourth grade, one employee, seven hundred and twenty dollars;	720 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, four hundred and eighty dollars.	480 00

For actual and necessary traveling expenses of the secretary, in the performance of his official duty, two hundred and fifty dollars, or so much thereof as may be necessary. 250 00

For furniture, books, printing, blanks, messages and other necessary incidental office expenses and for expenses incurred in the inspection or investigation of the administration of the law and rules, two thousand five hundred dollars, or so much thereof as may be necessary. 2,500 00

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, two thousand dollars, or so much thereof as may be necessary. 2,000 00

## EXAMINATIONS DIVISION.

## For salaries of the:

chief examiner, three thousand six hundred dollars;	3,600 00
employees according to grade:	
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00

sixth grade, three employees, three thousand four hundred dollars;	3,400 00
fifth grade, two employees, one thousand eight hundred dollars;	1,800 00
third grade, one employee, six hundred dollars;	600 00
first grade, one employee, three hundred and sixty dollars.	360 00
For actual and necessary traveling expenses of the chief examiner, examiners and stenographer in the performance of their official duties, five hundred dollars, or so much thereof as may be necessary.	500 00
For expenses of examinations, and compensation of temporary local and expert examiners to be appointed by the commission, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For printing sample examination questions and civil list, one thousand dollars, or so much thereof as may be necessary.	1,000 00

### **LEGISLATIVE.**

#### **LEGISLATURE.**

For compensation and mileage of members and compensation of officers of the legislature, five hundred and fifty thousand dollars, or so much thereof as may be necessary.	550,000 00
For the advances by the comptroller to the clerks of the senate and assembly, for contingent expenses, including books, blanks, stationery, printing, law books and binding of books and records for the senate and assembly libraries, revising clerk's manual, books and blanks, preparation, proof-reading and comparison of journals and documents, expenses of receiving reports and printed documents and the storing, addressing and forwarding the same, file boards, record books and legislative supplies and expenses, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00

For expenses of legislative committees, including compensation of witnesses; for indexing the bills, journals and documents of the senate and assembly; for indexing the executive journals of the senate and for preparation of supplementary indices to senate and assembly bills, journals and documents, to be paid upon the certificate of the temporary president of the senate or the speaker of the assembly respectively; for postage, express and transportation of letters, reports, documents and other matter sent by express or freight, including boxes and coverings for the same; for printing and furnishing the legislative manual and clerk's manual; for law and reference books and publications for the senate and assembly libraries, committees and legislature; for legislative indices to senate and assembly bills, journals and documents; for extra clerical services and engrossing; for furniture, alterations and repairs of legislative rooms, and for other contingent expenses of the legislature, to be paid upon the certificate of the clerk of the senate or assembly respectively, sixty thousand dollars, or so much thereof as may be necessary.

60,000 00

For compensation and necessary incidental office expenses during the legislative session, of persons appointed under the legislative law to draft, examine and revise bills and furnish session indices and digests, to be paid upon the certificate of the temporary president of the senate and the speaker of the assembly, twelve thousand four hundred dollars, or so much thereof as may be necessary.

12,400 00

### PRINTING.

For legislative printing of the state, two hundred thousand dollars, or so much thereof as may be necessary, and the comptroller is authorized to pay from said amount for the services of an expert printer to ex-



amine all the accounts for printing, and who shall also act as chief clerk of the printing board, a sum not to exceed three thousand dollars per annum. 200,000 00

#### SESSION LAWS AND OFFICIAL CANVASS.

For publication of the session laws and the official canvass and official notices provided by law, which are subjects of contract, seventy-five thousand dollars, or so much thereof as may be necessary. 75,000 00

#### PUBLICATION OF GENERAL LAWS.

For payment of newspapers in the various counties in this state for the publication of the general laws of the state, pursuant to subdivision five of section forty-eight of chapter thirty-seven of the laws of nineteen hundred and nine, being the legislative law, one hundred fifty thousand dollars, or so much thereof as may be necessary. 150,000 00

### JUDICIAL.

#### JUDICIARY.

##### COURT OF APPEALS.

For salaries of the:

judges of the court of appeals, seventy thousand five hundred dollars; 70,500 00

for their necessary expenses, twenty-five thousand nine hundred dollars, pursuant to section fifty of chapter thirty-five, laws of nineteen hundred and nine, being the judiciary law; 25,900 00

justices of the supreme court serving as associate judges of the court of appeals, twenty thousand dollars; 20,000 00

for their necessary expenses pursuant to section seven, article six of the constitution, seven thousand four hundred dollars; 7,400 00

confidential clerk, appointed by the chief judge of the court of appeals, twenty-five hundred dollars; 2,500 00

crier, one thousand eight hundred dollars;	1,800 00
consultation clerk, three thousand seven hundred dollars;	3,700 00
stenographer and librarian, two thousand two hundred dollars;	2,200 00
three attendants acting as stenographers, five thousand four hundred dollars;	5,400 00
two attendants, one thousand eight hundred dollars each;	3,600 00
one attendant, one thousand dollars;	1,000 00
law clerk, two thousand eight hundred dollars;	2,800 00
the attendant designated as assistant law clerk, two thousand dollars;	2,000 00
messenger, one thousand dollars;	1,000 00
porter, eight hundred dollars.	800 00

**For salaries of the:**

clerks of judges of the court of appeals, appointed pursuant to section fifty-eight of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, and for expenses of offices for judges of the court of appeals incurred pursuant to section fifty-five of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, four thousand six hundred dollars, or so much thereof as may be necessary;

4,600 00

clerks appointed pursuant to section fifty-eight of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, by the justices of the supreme court assigned to serve as judges of the court of appeals, two thousand and forty dollars.

2,040 00

**CLERK OF THE COURT OF APPEALS.**

**For salaries of the:**

clerk, five thousand dollars;	5,000 00
deputy clerk, three thousand five hundred dollars;	3,500 00
remittitur clerk, two thousand five hundred dollars;	2,500 00

employees according to grade:	
ninth grade, two employees, four thousand two hundred dollars;	4,200 00
seventh grade, one employee, one thousand five hundred dollars.	1,500 00
For furniture, books, binding, blanks, printing and other necessary incidental office expenses, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For postage and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, seven hundred fifty dollars, or so much thereof as may be necessary.	750 00

## SUPREME COURT.

For salaries of the justices of the supreme court, the sum of twenty thousand dollars (re. \$20,000) remaining unexpended of an appropriation made by chapter five hundred and thirteen of the laws of nineteen hundred and ten, is hereby reappropriated for the same purpose, and the further sum of nine hundred and thirty thousand dollars, as provided by section twelve of article six of the constitution, as amended.	930,000 00
For compensation of justices of the supreme court designated to the appellate division of the second department from any district other than the second judicial district, to be refunded to the treasury, pursuant to section seventy-six of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, and section twelve of article six of the constitution, as amended, twenty-two thousand five hundred dollars.	22,500 00
For expenses of the appellate divisions of the supreme court for compensation of clerks, criers, attendants, of stenographers and clerks to the justices and for their actual and necessary expenses, sixty thousand dollars, or so much thereof as may be necessary.	60,000 00
For necessary expenses of the several justices assigned to the appellate division of the supreme court, pur-	

suant to section seventy-four of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, and section twelve of article six of the constitution, as amended, twenty-one thousand dollars, or so much thereof as may be necessary.	21,000 00
for the justices of the supreme court residing in the territory formerly composing the second judicial district, not residing in the county of Kings, namely, those residing in the present second and ninth districts outside of said county, for additional compensation, pursuant to section one hundred and forty-five of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, sixty-seven thousand five hundred dollars.	67,500 00
For compensation of confidential attendants of the appellate division of the supreme court, in the second judicial department, pursuant to section three hundred and forty-six of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, three thousand six hundred dollars, to be refunded to the treasury as provided by such section.	3,600 00
For payment of two typewriter operators appointed by the justices of the appellate division of the supreme court in the second judicial department, pursuant to sections one hundred and ten and three hundred and eight of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, at the rate of fifteen hundred dollars each, the sum of three thousand dollars, or so much thereof as may be necessary.	3,000 00
For compensation of confidential clerks to resident trial justices of the supreme court, other than justices of the appellate division, residing in the second judicial district, not including the county of Kings, ten thousand dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to subdivision two of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.	10,000 00

- For compensation of confidential clerks to resident trial justices of the supreme court in the fifth judicial district, appointed pursuant to subdivision four of section one hundred and sixty of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, seven thousand two hundred dollars, as provided by subdivision four of section two hundred and seventy-nine of such chapter, or so much thereof as may be necessary, which sum shall be a charge upon said district and shall be refunded to the treasury by such district. 7,200 00
- For compensation of confidential clerks to resident trial justices of the supreme court in the sixth and seventh judicial districts, to be refunded to the treasury, pursuant to subdivision seven of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, ten thousand eight hundred dollars, or so much thereof as may be necessary. 10,800 00
- For compensation of confidential clerks to resident trial justices of the supreme court in the eighth judicial district, to be refunded to the treasury, pursuant to subdivision eight of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, seven thousand two hundred dollars, or so much thereof as may be necessary. 7,200 00
- For compensation of confidential clerks to resident trial justices of the supreme court in the ninth judicial district, ten thousand dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to subdivision nine of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law. 10,000 00
- For compensation of confidential clerks to the justices of the supreme court designated to the appellate division of the second department, seventeen thousand five hundred dollars, or so much thereof as may be

necessary, to be refunded to the treasury pursuant to section two hundred and seventy-two of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.

17,500. 00

For compensation of two confidential clerks, appointed by the justices of the appellate division of the supreme court in the second judicial department, nine thousand dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to the provisions of section two hundred and seventy-two of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.

9,000 00

For compensation of the deputy clerk and attendants of the appellate division of the supreme court in the second judicial department, as provided in chapter three hundred and twenty-five of the laws of nineteen hundred and ten, and pursuant to subdivision five of section two hundred and seventy-one of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, and section three hundred and forty-five of such chapter, the sum of nineteen thousand two hundred dollars, to be refunded to the treasury as provided by said section.

19,200 00

For compensation of the consultation clerk of the appellate division of the fourth department, pursuant to subdivision nine of section two hundred and seventy-one of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, two thousand one hundred dollars;

2,100 00

and of the deputy clerk of said appellate division, one thousand five hundred dollars, pursuant to subdivision six of such section, to be refunded to the treasury as provided by such subdivision;

1,500 00

For the deputy clerk of the appellate division of the third department, two thousand dollars, pursuant to subdivision six of such section, to be refunded to the treasury as provided by such subdivision.

2,000. 00

- For compensation of case and consultation clerk of the appellate division of the supreme court in the second judicial department, pursuant to subdivision eight of section two hundred and seventy-one of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, two thousand four hundred dollars, to be refunded to the treasury as provided by subdivision five of such section. 2,400 00
- For stenographers of the supreme court, in the third, fourth, fifth, sixth, seventh and eighth judicial districts, for compensation, pursuant to section three hundred and thirteen of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, as amended by chapter sixty of the laws of nineteen hundred and ten, ninety thousand dollars, to be refunded to the treasury pursuant to the provisions of such section. 90,000 00
- For additional stenographers in the third and fourth judicial districts, for compensation and for actual and necessary expenses, ten thousand dollars, to be refunded to the treasury pursuant to section three hundred and seventeen of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law. 10,000 00
- For stenographers residing in the counties composing the present second and ninth judicial districts, and appointed under subdivisions three and eight of section one hundred and sixty-one of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, and chapter one hundred and eighty of the laws of nineteen hundred and ten, as amended, for compensation, the sum of twenty-four thousand dollars, to be refunded to the treasury as provided by section three hundred and sixteen of said chapter. 24,000 00
- For expenses of justices in the third, fourth, fifth, sixth, seventh and eighth judicial districts, assigned by the appellate division or designated by the governor to hold a trial or special term in a judicial district other than that in which he is elected, as provided by

section twelve of article six of the constitution, as amended, to be refunded to the treasury by the judicial district where the services are rendered, three thousand dollars.

3,000 00

## LIBRARIES.

For books, binding and supplies for the fourteen judicial district libraries named in section eleven hundred and sixty-five of chapter one hundred and forty of the laws of nineteen hundred and ten, being the education law, the law library of the appellate division of the fourth department named in section eleven hundred and sixty-four of such chapter and the library of the court of appeals named in subdivision two of section eleven hundred and sixty-one of such chapter, six hundred dollars each, nine thousand six hundred dollars, or so much thereof as may be necessary.

9,600 00

For the libraries of the judges of the court of appeals, two thousand five hundred dollars, or so much thereof as may be necessary.

2,500 00

For books, binding and supplies for the library of the appellate division of the supreme court in the first judicial department, two thousand six hundred dollars, or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court.

2,600 00

For the library of the appellate division of the supreme court in the second judicial department, one thousand dollars, or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court.

1,000 00

For the library of the appellate division of the supreme court in the third judicial department, one thousand dollars, or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court.

1,000 00 .

For the library of the appellate division of the supreme court in the fourth judicial department, three thou-



sand dollars, or so much thereof as may be necessary, to be paid upon vouchers approved by the presiding justice of said court.	3,000 00
For the salary of the librarian, three thousand dollars, which amount shall be refunded pursuant to the provisions of section eleven hundred and sixty-four of chapter one hundred and forty of the laws of nineteen hundred and ten, being the education law.	3,000 00
For the library of the trial terms of the supreme court in the first judicial department, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the law library of the fifth judicial district, at Utica, one thousand four hundred dollars, or so much thereof as may be necessary.	1,400 00
For the law library of the sixth judicial district, at Elmira, one thousand dollars, or so much thereof as may be necessary, to be paid on the certificate of a majority of the trustees of said library.	1,000 00
For the eighth judicial district library at Buffalo, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For the law library of the ninth judicial district, at White Plains, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For books, binding and supplies for the court of appeals library at Syracuse, two thousand six hundred dollars, to be paid upon the certificate of the librarian thereof.	2,600 00
For salary of the librarian, three thousand dollars, which amount shall be refunded pursuant to the provisions of subdivision two of section eleven hundred and sixty of chapter one hundred and forty of the laws of nineteen hundred and ten, being the education law.	3,000 00
For supplying states on exchange with reports of the court of appeals and the supreme court, pursuant to section twenty-seven of the executive law, eight hundred dollars, or so much thereof as may be necessary.	800 00

## STATE REPORTER.

## For salaries of the:

state reporter, five thousand dollars;	5,000 00
deputy state reporter, three thousand seven hundred dollars;	3,700 00
managing clerk, two thousand one hundred dollars;	2,100 00
law clerk, two thousand dollars;	2,000 00
one confidential law stenographer, one thousand dollars.	1,000 00
employees according to grade:	
first grade, one employee, three hundred dollars.	300 00

For rent, furniture, books, stationery, messages and other necessary incidental office expenses, eleven hundred twenty-five dollars.

1,125 00

## SUPREME COURT REPORTER.

## For salaries of the:

supreme court reporter, five thousand dollars;	5,000 00
deputy supreme court reporter, three thousand dollars;	3,000 00
secretary, one thousand five hundred dollars;	1,500 00
employees according to grade:	

eighth grade, two employees, one thousand eight hundred dollars each;	3,600 00
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sixth grade, two employees, two thousand two hundred dollars;	2,200 00
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fifth grade, one employee, nine hundred dollars;	900 00
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third grade, one employee, five hundred dollars;	500 00
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For temporary services, five hundred dollars.	500 00
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For rent, furniture, books, stationery, messages and other necessary incidental office expenses, two thousand dollars, or so much thereof as may be necessary.

2,000 00

## MISCELLANEOUS REPORTER.

## For salaries of the:

miscellaneous reporter, four thousand five hundred dollars;	4,500 00
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employees according to grade:

eighth grade, one employee, one thousand seven hundred dollars;	1,700 00
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sixth grade, two employees, two thousand four hundred dollars.	2,400 00
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For rent, cleaning, lighting, heating offices, books, stationery, and other necessary office supplies and procuring copies of opinions, one thousand three hundred dollars, or so much thereof as may be necessary.	1,300 00
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#### COURT OF CLAIMS.

For salaries of the:

judges, twenty-four thousand dollars;	24,000 00
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clerk, four thousand dollars;	4,000 00
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deputy clerk, three thousand dollars;	3,000 00
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court stenographer, two thousand five hundred dollars;	2,500 00
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employees according to grade:

sixth grade, marshal, including his services as messenger, one thousand two hundred dollars;	1,200 00
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two employees, two thousand four hundred dollars;	2,400 00
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fourth grade, one employee, seven hundred and twenty dollars.	720 00
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For expenses and disbursements of judges, seven thousand five hundred fifty-six dollars, or so much thereof as may be necessary.	7,556 06
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For actual and necessary traveling expenses of the clerk, deputy clerk, stenographer and marshal in the performance of their official duties elsewhere than in Albany, and for furniture, books, printing, stationery and other necessary incidental office expenses, three thousand eight hundred dollars, or so much thereof as may be necessary.	3,800 00
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For purchase of necessary law books for library, five hundred dollars, or so much thereof as may be necessary.	500 00
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**REGULATIVE.****STATE DEPARTMENT OF EXCISE****For salaries of the:**

state commissioner of excise, seven thousand dollars ;	7,000 00
and for his actual and necessary traveling expenses in the performance of his official duty, nine hundred dollars, or so much thereof as may be necessary ;	900 00
deputy commissioner, five thousand dollars ;	5,000 00
and for his actual and necessary traveling expenses in the performance of his official duty, two hundred dollars, or so much thereof as may be necessary ;	200 00
second deputy commissioner, three thousand five hundred dollars.	3,500 00
For temporary services, four thousand dollars, or so much thereof as may be necessary.	4,000 00
For expenses of special agent service, including salaries of sixty special agents, and salary and expenses of special detective service, one hundred fifty thousand dollars, or so much thereof as may be necessary.	150,000 00
For legal expenses, including salaries of attorneys and law stenographers for Albany, New York, Brooklyn and Buffalo offices, and compensation, costs, expenses and disbursements of attorneys under section seven of the liquor tax law, eighty thousand dollars, or so much thereof as may be necessary..	80,000 00
For furniture, books, blanks, binding, printing, stationery, postage, transportation of letters and official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, including suboffices, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For examination of offices of the special deputy commissioners and county treasurers, seven thousand dollars, or so much thereof as may be necessary.	7,000 00

For expense of enumeration and determining amount of excise taxation in several localities, including supervision, three thousand six hundred dollars, or so much thereof as may be necessary. 3,600 00

## ALBANY OFFICE.

For salaries of the:

secretary, two thousand dollars;	2,000 00
financial clerk, one thousand eight hundred dollars;	1,800 00
chief rebate clerk, two thousand two hundred fifty dollars;	2,250 00
auditor, two thousand seven hundred fifty dollars;	2,750 00
cashier, two thousand seven hundred fifty dollars;	2,750 00
employees according to grade:	
tenth grade, two employees, four thousand six hundred fifty dollars;	4,650 00
ninth grade, two employees, four thousand one hundred dollars;	4,100 00
eighth grade, one employee, one thousand six hundred dollars;	1,600 00
seventh grade, twelve employees, sixteen thousand eight hundred dollars;	16,800 00
sixth grade, eleven employees, twelve thousand four hundred fifty dollars;	12,450 00
fifth grade, two employees, one thousand five hundred sixty dollars;	1,560 00
fourth grade, one employee, seven hundred twenty dollars;	720 00
third grade, three employees, one thousand eight hundred dollars.	1,800 00

## SPECIAL DEPUTY COMMISSIONERS OF EXCISE.

For the one-half part, payable by the state, of the salaries and expenses of the several special deputy commissioners of excise, including office rent and clerical help, office furniture, fixtures and appliances, as provided by section six of the liquor tax law, to wit:

## BOROUGH OF MANHATTAN AND THE BRONX.

## For salaries of the:

special deputy commissioner, two thousand five hundred dollars;	2,500 00
cashier and bookkeeper, one thousand seven hundred fifty dollars;	1,750 00
first assistant cashier and bookkeeper, one thousand two hundred fifty dollars;	1,250 00
confidential clerk, one thousand dollars;	1,000 00
employees according to grade:	
sixth grade, one employee, one thousand dollars;	1,000 00
fifth grade, ten employees, seven thousand four hundred fifty dollars;	7,450 00
second grade, one employee, four hundred dollars.	400 00
For rent, four thousand dollars, or so much thereof as may be necessary.	4,000 00

## BOROUGH OF BROOKLYN.

## For salaries of the:

special deputy commissioner, one thousand eight hundred seventy-five dollars;	1,875 00
cashier, one thousand six hundred dollars;	1,600 00
employees according to grade:	
sixth grade, one employee, one thousand dollars;	1,000 00
fifth grade, five employees, three thousand seven hundred fifty dollars.	3,750 00
For rent, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00

## BOROUGH OF QUEENS.

For salary of the special deputy commissioner, one thousand two hundred fifty dollars.	1,250 00
For expenses of his office, including office rent and clerical help, one thousand two hundred ten dollars, or so much thereof as may be necessary.	1,210 00

## BOROUGH OF RICHMOND.

For salary of the special deputy commissioner, one thousand dollars.	1,000 00
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For expenses of his office, including office rent and clerical help, three hundred ten dollars, or so much thereof as may be necessary.	310 00
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## COUNTY OF ERIE.

For salaries of the:

special deputy commissioner, one thousand five hundred dollars;	1,500 00
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employees according to grade:

sixth grade, two employees, two thousand dollars;	2,000 00
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fifth grade, one employee, seven hundred fifty dollars;	750 00
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second grade, one employee, four hundred eighty dollars.	480 00
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For rent, nine hundred dollars, or so much thereof as may be necessary.	900 00
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## COUNTY OF MONROE.

For salary of the special deputy commissioner, one thousand two hundred fifty dollars.	1,250 00
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For expenses of his office, including office rent and clerical help, two hundred fifty dollars, or so much thereof as may be necessary.	250 00
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## COUNTY OF ALBANY.

For salary of the special deputy commissioner, one thousand dollars.	1,000 00
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For expenses of his office, including office rent and clerical help, eight hundred dollars, or so much thereof as may be necessary.	800 00
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## COUNTY OF ONONDAGA.

For salary of the special deputy commissioner, one thousand dollars.	1,000 00
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For expenses of his office, including office rent and clerical help, three hundred ten dollars forty-two cents, or so much thereof as may be necessary.	310 42
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## COUNTY OF ONEIDA.

For salary of the special deputy commissioner, seven hundred fifty dollars.	750 00
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For expenses of his office, including office rent and clerical help, one hundred seventy-five dollars, or so much thereof as may be necessary.	175 00
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## COUNTY OF RENSSELAER.

For salary of the special deputy commissioner, seven hundred fifty dollars.	750 00
For expenses of his office, including office rent and clerical help, two hundred twenty-five dollars, or so much thereof as may be necessary.	225 00

## COUNTY OF WESTCHESTER.

For salary of the special deputy commissioner, one thousand two hundred fifty dollars.	1,250 00
For expenses of his office, including office rent and clerical help, nine hundred ninety-four dollars eighty-four cents, or so much thereof as may be necessary.	994 84

## COUNTY OF NIAGARA.

For salary of the special deputy commissioner, seven hundred fifty dollars.	750 00
For expenses of his office, including office rent and clerical help, two hundred two dollars, or so much thereof as may be necessary.	202 00

## COUNTY OF SCHENECTADY.

For salary of the special deputy commissioner, seven hundred fifty dollars.	750 00
For expenses of his office, including office rent and clerical help, three hundred thirty-three dollars, or so much thereof as may be necessary.	333 00

## HEALTH DEPARTMENT.

For salaries of the:	
commissioner of health, five thousand dollars;	5,000 00
for his actual and necessary traveling expenses in the performance of his official duties, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00



deputy commissioner of health, three thousand five hundred dollars;	3,500 00
for his actual and necessary traveling expenses in the performance of his official duties, five hundred dollars, or so much thereof as may be necessary;	500 00
secretary, three thousand five hundred dollars;	3,500 00
chief clerk and director of the division of vital statistics, three thousand dollars;	3,000 00
employees according to grade:	
ninth grade, one employee, two thousand one hundred dollars;	2,100 00
sixth grade, one employee, one thousand two hundred dollars;	1,200 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, four hundred eighty dollars.	480 00

## DIVISION OF SANITARY ENGINEERING.

For salaries of the:

consulting engineers, four thousand five hundred dollars;	4,500 00
assistant consulting engineer, three thousand dollars;	3,000 00
two assistant sanitary engineers, three thousand six hundred dollars;	3,600 00
employees according to grade:	
sixth grade, one employee, one thousand eighty dollars;	1,080 00
fourth grade, one employee, seven hundred twenty dollars;	720 00

For the purchase of instruments, maps, and for necessary and incidental office expenses, one thousand dollars, or so much thereof as may be necessary.

1,000 00

## DIVISION OF VITAL STATISTICS.

For salaries of the:

employees according to grade:	
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, two employees, three thousand dollars;	3,000 00

sixth grade, one employee, one thousand two hundred dollars;	1,200 00
fifth grade, two employees, one thousand eight hundred dollars;	1,800 00
fourth grade, two employees, one thousand four hundred forty dollars;	1,440 00
third grade, two employees, one thousand two hundred dollars, or so much thereof as may be necessary;	1,200 00
laborer, six hundred dollars.	600 00

## DIVISION OF PUBLICITY AND EDUCATION.

For salary of the director, one thousand two hundred dollars.	1,200 00
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## DIVISION OF COMMUNICABLE DISEASES.

For salaries of the:

medical expert on contagious diseases, two thousand four hundred dollars;	2,400 00
employees according to grade:	
fifth grade, two employees, one thousand eight hundred dollars.	1,800 00

## ANTITOXIN LABORATORY.

For actual and necessary expenditures for the manufacture and standardization of tetanus, streptococcus and diphtheria antitoxin, for the proper distribution of the same in antiseptic tubes, and for further investigations of serum therapy in tuberculosis, typhoid fever and kindred diseases, fifteen thousand dollars, or so much thereof as may be necessary.	15,000 00
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## HYGIENIC LABORATORY.

For actual and necessary expenses of equipment and maintenance of the state hygienic laboratory and for the services of the Bender laboratory and elsewhere fourteen thousand dollars, or so much thereof as may be necessary.	14,000 00
For actual and necessary traveling expenses of subordinates of the department of health in the perform-	

ance of their official duties pursuant to written direction of the commissioner, six thousand five hundred dollars, or so much thereof as may be necessary.	6,500 00
For services and expenses of experts and stenographers in examinations and investigations, and for the expenses of the annual conference of health officers, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00
For furniture, books, blanks, binding, printing, messages and other necessary and incidental office expenses, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For postage, and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, five thousand dollars, or so much thereof as may be necessary.	5,000 00

## STATE CANCER LABORATORY AT BUFFALO.

For maintenance and equipment of the state cancer Laboratory at Buffalo, thirty-five thousand dollars, or so much thereof as may be necessary, to be expended under the supervision and control of the state health department.	35,000 00
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## DEPARTMENT OF LABOR.

## For salaries of the:

commissioner, five thousand dollars;	5,000 00
first deputy commissioner, three thousand dollars;	3,000 00
second deputy commissioner, three thousand dollars;	3,000 00
assistant first deputy commissioner or assistant factory inspector, two thousand four hundred dollars;	2,400 00
second assistant first deputy commissioner or assistant factory inspector, two thousand four hundred dollars;	2,400 00
counsel or assistant second deputy commissioner, two thousand four hundred dollars;	2,400 00
mediator of industrial disputes, two thousand five hundred dollars;	2,500 00

chief statistician, three thousand dollars;	3,000 00
mercantile inspector, two thousand five hundred dollars, or so much thereof as may be prescribed by law;	2,500 00
chief investigator, bureau of industries and immigration, two thousand five hundred dollars;	2,500 00
employees according to grade:	
tenth grade, three employees, seven thousand two hundred dollars;	7,200 00
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, three employees, five thousand four hundred dollars;	5,400 00
seventh grade, twenty employees, twenty-nine thousand four hundred dollars;	29,400 00
sixth grade, seventy-four employees, eighty-five thousand eight hundred dollars;	85,800 00
fifth grade, five employees, four thousand five hundred dollars;	4,500 00
fourth grade, three employees, two thousand one hundred sixty dollars;	2,160 00
first grade, one employee, three hundred sixty dollars.	360 00
For actual and necessary traveling expenses of the commissioner, in the performance of his official duties, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
For actual and necessary traveling expenses of officials and employees of the department in the performance of their official duties under the direction of the commissioner, thirty-five thousand dollars, or so much thereof as may be necessary.	35,000 00
For printing, including the expense of publishing bulletins, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00
For furniture, books, blanks, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including	

boxes or covering for same, and other necessary and incidental office expenses, fourteen thousand dollars, or so much thereof as may be necessary. 14,000 00

## STATE SUPERINTENDENT OF ELECTIONS.

### FOR THE METROPOLITAN ELECTIONS DISTRICT.

#### For salaries of the:

state superintendent, five thousand dollars;	5,000 00
chief deputy, four thousand five hundred dollars;	4,500 00
general counsel, four thousand dollars;	4,000 00
secretary, two thousand dollars;	2,000 00
field deputy, two thousand dollars;	2,000 00
chief clerk, one thousand eight hundred dollars;	1,800 00
stenographer, one thousand five hundred dollars;	1,500 00
deputy state superintendents of elections, one hundred fifty thousand dollars, or so much thereof as may be necessary.	150,000 00

For furniture, books, blanks, printing, stationery, messages and other necessary incidental office expenses. twenty-two thousand five hundred dollars, or so much thereof as may be necessary. 22,500 00

## BOARD OF PORT WARDENS.

For expenses of the board of port wardens of New York, pursuant to chapter one hundred and forty-two, laws of eighteen hundred and ninety-one, four thousand five hundred dollars, or so much thereof as may be necessary. 4,500 00

## PUBLIC SERVICE COMMISSION, FIRST DISTRICT.

#### For salaries of the:

commissioners, seventy-five thousand dollars;	75,000 00
counsel to the commission, ten thousand dollars;	10,000 00
secretary to the commission, six thousand dollars.	6,000 00

## PUBLIC SERVICE COMMISSION, SECOND DISTRICT.

For salaries of the:

commissioners, seventy-five thousand dollars;	75,000 00
counsel to the commission, ten thousand dollars;	10,000 00
secretary to the commission, six thousand dollars;	6,000 00
assistant secretary to the commission, four thousand dollars;	4,000 00
statistician, five thousand dollars;	5,000 00
engineer of light, heat and power division, five thousand dollars;	5,000 00
chief of light, heat and power division, four thousand dollars;	4,000 00
inspector of electric railroads, four thousand dollars;	4,000 00
assistant inspector of electric railroads, one thousand five hundred dollars;	1,500 00
executive clerk, four thousand dollars;	4,000 00
chief of division of transportation, four thousand dollars;	4,000 00
engineer, grade crossings, four thousand dollars;	4,000 00
chief of division of tariffs, four thousand dollars;	4,000 00
supervisor of equipment, four thousand dollars;	4,000 00
two assistant supervisors of equipment, five thousand two hundred dollars;	5,200 00
locomotive boiler inspector, three thousand dollars;	3,000 00
two inspectors, division of transportation, three thousand dollars each, six thousand dollars;	6,000 00
superintendent of publication and compilation, two thousand four hundred dollars;	2,400 00
chief clerk of records, two thousand five hundred dollars;	2,500 00
chief gas inspector, two thousand five hundred dollars;	2,500 00
electric meter inspector, two thousand five hundred dollars;	2,500 00
assistant chief statistician, two thousand five hundred dollars;	2,500 00
chief division of traffic, four thousand dollars;	4,000 00
traffic inspector, two thousand four hundred dollars;	2,400 00

chief, division of telephone and telegraph, four thousand dollars;	4,000 00
assistant chief, division of telephone and telegraph, three thousand dollars;	3,000 00
accountant, two thousand five hundred dollars;	2,500 00
engineer, division of telephone and telegraph, two thousand four hundred dollars;	2,400 00
confidential secretary to chairman, two thousand five hundred dollars;	2,500 00
employees according to grade:	
ninth grade, four employees, eight thousand dollars;	8,000 00
eighth grade, eleven employees, nineteen thousand four hundred dollars;	19,400 00
seventh grade, twelve employees, eighteen thousand dollars;	18,000 00
sixth grade, thirty-eight employees, forty-three thousand four hundred forty dollars;	43,440 00
fifth grade, fourteen employees, twelve thousand six hundred dollars;	12,600 00
fourth grade, four employees, two thousand eight hundred eighty dollars;	2,880 00
third grade, five employees, three thousand dollars;	3,000 00
second grade, five employees, two thousand two hundred ninety-seven dollars fifty cents;	2,297 50
first grade, one employee, three hundred sixty dollars.	360 00
For actual and necessary traveling and other expenses and disbursements of the commissioners, counsel to the commission and the secretary, and their officers, clerks, inspectors, experts and other employees, incurred or made by them in the discharge of their official duties, thirty-five thousand dollars, or so much thereof as may be necessary.	35,000 00
For printing, office supplies, telephone and telegraph service, expressage, postage, stationery, reporting of hearings, laboratory supplies, books and other necessary and incidental office expenses, thirty-seven thousand five hundred dollars, or so much thereof as may be necessary.	37,500 00

For rent of offices, Albany, Buffalo and New York, fuel and light for same, nine thousand one hundred sixty dollars, or so much thereof as may be necessary.	9,160 00
For salaries of additional employees, which may be required from time to time, and for contingent and other expenses not otherwise provided for, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

## STATE BOARD OF TAX COMMISSIONERS.

## For salaries of the:

tax commissioners, eighteen thousand dollars;	18,000 00
secretary, three thousand seven hundred fifty dollars;	3,750 00
employees according to grade:	
eleventh grade, one employee, two thousand seven hundred dollars;	2,700 00
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
ninth grade, one employee, two thousand dollars;	2,000 00
seventh grade, three employees, four thousand five hundred dollars;	4,500 00
sixth grade, six employees, six thousand eight hundred dollars;	6,800 00
second grade, one employee, four hundred eighty dollars.	480 00

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, temporary employees and other incidental and necessary office expenses, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
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For actual and necessary traveling expenses of the commissioners in the performance of their official duties, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
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For the salaries of eight special agents, fourteen thousand four hundred dollars, or so much thereof as may be necessary;	14,400 00
the sum of four thousand dollars, or so much thereof as may be necessary, for their actual and necessary traveling expenses in the performance of their official duties.	4,000 00
For services and actual necessary traveling expenses of confidential and expert appraisers of special franchises, thirteen thousand dollars, or so much thereof as may be necessary.	13,000 00
For salary of a mortgage tax clerk, three thousand five hundred dollars;	3,500 00
for the actual and necessary traveling expenses of the mortgage tax clerk and the assistant mortgage tax clerk in the performance of their official duties, the sum of eight hundred dollars, or so much thereof as may be necessary.	800 00
For salary of assistant mortgage tax clerk, two thousand four hundred dollars.	2,400 00
For salaries of four special examiners under the mortgage tax law, seven thousand two hundred dollars, or so much thereof as may be necessary.	7,200 00
For actual and necessary traveling expenses of said examiners incurred by them in the discharge of their official duties, four thousand eight hundred dollars, or so much thereof as may be necessary.	4,800 00

#### HEALTH OFFICER, PORT OF NEW YORK.

For the salaries of the:

health officer of the port of New York, twelve thousand five hundred dollars;	12,500 00
senior deputy health officer, four thousand dollars;	4,000 00
two deputy health officers, six thousand dollars;	6,000 00
secretary, one thousand eight hundred dollars;	1,800 00
chief clerk, one thousand eight hundred dollars;	1,800 00

chief clerk, hospital department, one thousand five hundred dollars;	1,500 00
assistant hospital clerk, one thousand eighty dollars;	1,080 00
clerk and telephone operator, seven hundred and twenty dollars;	720 00
stenographer, one thousand dollars;	1,000 00
messenger, three hundred sixty dollars;	360 00
night watchman, nine hundred dollars;	900 00
superintendent of grounds and buildings, one thousand eighty dollars;	1,080 00
four laborers, two thousand eight hundred eighty dollars, or so much thereof as may be necessary;	2,880 00
bacteriologist, three thousand dollars;	3,000 00
two assistant bacteriologists, two thousand four hundred dollars;	2,400 00
helper, six hundred dollars;	600 00
laboratory assistant, four hundred eighty dollars;	480 00
laundress, four hundred eighty dollars.	480 00

## QUARANTINE BOAT SERVICE.

For salaries of the:

senior captain, one thousand eighty dollars;	1,080 00
three other captains, four thousand six hundred and eighty dollars;	4,680 00
four engineers, five thousand seven hundred sixty dollars;	5,760 00
four firemen, three thousand three hundred sixty dollars;	3,360 00
chief disinfecter and deck hand, nine hundred sixty dollars;	960 00
seven deck hands and disinfectors, five thousand eight hundred eighty dollars.	5,880 00

## HOFFMAN'S ISLAND.

For salaries of the:

chief medical officer, one thousand eight hundred dollars;	1,800 00
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four assistant medical officers, four thousand eight hundred dollars, or so much thereof as may be necessary;	4,800 00
superintendent of nurses, one thousand dollars;	1,000 00
assistant superintendent of nurses, seven hundred twenty dollars;	720 00
trained nurses, eighteen thousand dollars, or so much thereof as may be necessary;	18,000 00
trained nurses in charge of detained passengers, seven hundred twenty dollars;	720 00
two engineers, two thousand one hundred sixty dollars;	2,160 00
three firemen, one thousand nine hundred eighty dollars, or so much thereof as may be necessary;	1,980 00
three laborers, one thousand six hundred twenty dollars, or so much thereof as may be necessary;	1,620 00
two watchmen, one thousand eighty dollars;	1,080 00
two cooks, one thousand eighty dollars;	1,080 00
one cook, four hundred twenty dollars;	420 00
three assistant cooks, nine hundred dollars;	900 00
six kitchen helpers, one thousand four hundred forty dollars;	1,440 00
one waitress and chambermaid, three hundred dollars;	300 00
two waitresses, four hundred eighty dollars;	480 00
three chambermaids, seven hundred twenty dollars;	720 00
one laundryman, four hundred eighty dollars;	480 00
one assistant laundryman, three hundred dollars;	300 00
four laundresses, twelve hundred dollars;	1,200 00
ten ward helpers, two thousand four hundred dollars.	2,400 00
For food for hospital patients and employees, the sum of thirty-one thousand dollars, or so much thereof as may be necessary.	31,000 00

## SWINBURNE ISLAND.

## For salaries of the:

medical superintendent, two thousand dollars;	2,000 00
one engineer, one thousand two hundred sixty dollars;	1,260 00
two firemen, one thousand three hundred twenty dollars;	1,320 00

one laborer, five hundred forty dollars;	540 00
three laborers, one thousand two hundred sixty dollars;	1,260 00
one cook, five hundred forty dollars;	540 00
two assistant cooks, six hundred dollars;	600 00
one kitchenman, two hundred forty dollars;	240 00
one waitress and chambermaid, three hundred dollars.	300 00
For food for patients and employees, eight thousand dollars, or so much thereof as may be necessary.	8,000 00
For boat supplies and repairs, laboratory supplies and repairs, dock repairs, repairs to buildings, lighting, telephone, water, oil, clothing, mason work, plumbing, printing, stationery, drugs and instruments, and incidental expenses, thirty-four thousand five hundred dollars, or so much thereof as may be necessary.	34,500 00
For coal, the sum of fifteen thousand dollars, or so much thereof as may be necessary.	15,000 00

## STEAM VESSEL INSPECTION.

For salaries of the inspectors of steam vessels, six thousand dollars.	6,000 00
For their necessary traveling expenses, and for the supplies necessary for the performance of their official duties, two thousand dollars, or so much thereof as may be necessary, pursuant to section four of chapter forty-two of the laws of nineteen hundred and nine, being the navigation law.	\$2,000 00

## DEPARTMENT OF WEIGHTS AND MEASURES.

For salaries of the:	
superintendent, three thousand five hundred dollars, or so much thereof as may be prescribed by law;	3,500 00
deputy superintendent, two thousand five hundred dollars.	2,500 00
For actual and necessary traveling expenses incurred in the performance of their official duties, by the superintendent and the inspectors, four thousand dollars, or so much thereof as may be necessary.	4,000 00

For salaries according to grade:

sixth grade, six employees, six thousand six hundred dollars;	6,600 00
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third grade, one employee, five hundred dollars;	500 00
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For furniture, books, stationery, messages and other office and contingent expenses, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
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### EDUCATIONAL.

#### DEPARTMENT OF EDUCATION.

##### COMMISSIONER'S OFFICE.

For salaries of the:

commissioner of education, ten thousand dollars, which shall be in lieu of all and exclude all other compensation and allowances to said commissioner for expenses of every kind and nature whatsoever.	\$10,000 00
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first assistant commissioner, five thousand dollars;	5,000 00
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second assistant commissioner, five thousand dollars;	5,000 00
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third assistant commissioner, five thousand dollars;	5,000 00
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assistant in elementary education, two thousand seven hundred dollars;	2,700 00
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secretary to the commissioner, two thousand dollars;	2,000 00
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employees according to grade:

sixth grade, five employees, six thousand dollars;	6,000 00
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fifth grade, one employee, nine hundred dollars;	900 00
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fourth grade, three employees, two thousand one hundred sixty dollars.	2,160 00
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##### ADMINISTRATION DIVISION.

For salaries of the:

chief, three thousand dollars;	3,000 00
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cashier, two thousand five hundred dollars;	2,500 00
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employees according to grade:

ninth grade, one employee, two thousand dollars;	2,000 00
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seventh grade, one employee, one thousand five hundred dollars;	1,500 00
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sixth grade, six employees, six thousand eight hundred dollars;	6,800 00
fifth grade, one employee, nine hundred dollars;	900 00
fourth grade, one employee, seven hundred twenty dollars;	720 00
third grade, four employees, two thousand four hundred dollars;	2,400 00
second grade, four employees, one thousand nine hundred twenty dollars.	1,920 00

## COMPULSORY ATTENDANCE DIVISION.

chief, three thousand dollars;	3,000 00
employees according to grade:	
sixth grade, one employee, one thousand dollars;	1,000 00
fifth grade, one employee, nine hundred dollars;	900 00
second grade, one employee, four hundred eighty dollars.	480 00

## EXAMINATIONS DIVISION.

chief, four thousand dollars;	4,000 00
assistant in charge of teachers' examinations, three thousand dollars;	3,000 00
assistant in charge of foreign credentials, two thousand seven hundred dollars;	2,700 00
employees according to grade:	
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
eighth grade, three employees, five thousand four hundred dollars;	5,400 00
seventh grade, one employee, one thousand five hundred dollars;	1,500 00
sixth grade, sixteen employees, eighteen thousand four hundred dollars;	18,400 00
fifth grade, eighteen employees, sixteen thousand two hundred dollars;	16,200 00
fourth grade, ten employees, seven thousand two hundred dollars;	7,200 00

third grade, twelve employees, seven thousand two hundred dollars;	7,200 00
second grade, three employees, one thousand four hundred forty dollars;	1,440 00
first grade, one employee, three hundred sixty dollars.	360 00

## INSPECTIONS DIVISION.

chief, three thousand five hundred dollars;	3,500 00
one inspector, three thousand dollars;	3,000 00
ten inspectors, twenty-five thousand dollars;	25,000 00
employees according to grade:	
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
ninth grade, one employee, two thousand dollars;	2,000 00
sixth grade, two employees, two thousand dollars.	2,000 00

## LAW DIVISION.

chief, three thousand five hundred dollars;	3,500 00
employees according to grade:	
seventh grade, one employee, one thousand five hundred dollars.	1,500 00

## DIVISION OF SCHOOL LIBRARIES.

chief, two thousand five hundred dollars;	2,500 00
employees according to grade:	
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
fifth grade, one employee, nine hundred dollars.	900 00

## STATISTICS DIVISION.

chief, three thousand dollars;	3,000 00
employees according to grade:	
sixth grade, two employees, two thousand four hundred dollars;	2,400 00
fifth grade, one employee, nine hundred dollars;	900 00
third grade, two employees, one thousand two hundred dollars.	1,200 00

## DIVISION OF VOCATIONAL SCHOOLS.

chief, four thousand dollars;	4,000 00
inspector of drawing and industrial training, two thousand five hundred dollars;	2,500 00
inspector of courses in agriculture, two thousand five hundred dollars.	2,500 00
employees according to grade:	
fifth grade, one employee, nine hundred dollars.	900 00

## DIVISION OF VISUAL INSTRUCTION.

chief, three thousand dollars;	3,000 00
employees according to grade:	
ninth grade, one employee, two thousand dollars;	2,000 00
sixth grade, one employee, one thousand two hundred dollars;	1,200 00
fifth grade, two employees, eighteen hundred dollars;	1,800 00
third grade, two employees, one thousand two hundred dollars;	1,200 00
second grade, one employee, four hundred eighty dollars.	480 00
For purchase, preparation and distribution of apparatus and material used in administering the system of visual instruction under the rules and regulations prescribed by the commissioner of education, ten thousand dollars, or so much as may be necessary.	10,000 00

## THE STATE LIBRARY.

For salaries of the:

director, five thousand dollars;	5,000 00
chief archivist, three thousand dollars;	3,000 00
law librarian, two thousand five hundred dollars;	2,500 00
employees according to grade:	
tenth grade, two employees, four thousand eight hundred dollars;	4,800 00
ninth grade, two employees, four thousand two hundred dollars;	4,200 00
eighth grade, two employees, three thousand six hundred dollars;	3,600 00



seventh grade eight employees, twelve thousand dollars;	12,000 00
sixth grade, nine employees, ten thousand four hundred dollars;	10,400 00
fifth grade, seven employees, six thousand three hundred dollars;	6,300 00
fourth grade, twelve employees, eight thousand six hundred forty dollars;	8,640 00
third grade, nine employees, five thousand four hundred dollars;	5,400 00
second grade, twelve employees, five thousand seven hundred sixty dollars;	5,760 00
first grade, five employees, one thousand eight hundred dollars.	1,800 00
For books, serials and binding for the state library, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For state medical library for books, serials and binding pursuant to section eleven hundred and eleven of the education law, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the law library for books, serials and binding, two thousand five hundred dollars, or so much thereof as may be necessary.	\$2,500 00
For purchase of books and serials in engineering and technological subjects, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For books to be loaned free to the blind of the state, two thousand dollars, or so much thereof as may be necessary.	2,000 00

## LIBRARY SCHOOL.

For salaries of the:

vice-director, two thousand five hundred dollars;	2,500 00
employees according to grade:	
seventh grade, one employee, one thousand five hundred dollars;	1,500 00

sixth grade, one employee, one thousand two hundred dollars;	1,200 00
third grade, two employees, one thousand two hundred dollars.	1,200 00

## DIVISION OF EDUCATIONAL EXTENSION.

For salaries of the:

chief, two thousand four hundred dollars;	2,400 00
employees according to grade:	
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, two employees, three thousand dollars;	
sixth grade, one employee, one thousand two hundred dollars;	1,200 00
fifth grade, one employee, nine hundred dollars;	900 00
fourth grade, three employees, two thousand one hundred sixty dollars;	2,160 00
third grade, three employees, one thousand eight hundred dollars;	1,800 00
second grade, four employees, one thousand nine hundred twenty dollars;	1,920 00
first grade, one employee, three hundred sixty dollars.	360 00

For grants of public money for the benefit of free libraries, for the purposes mentioned in sections fifty-two, eleven hundred and thirty-one, eleven hundred and thirty-two and eleven hundred and thirty-three of the education law, thirty-three thousand dollars, or so much thereof as may be necessary.	33,000 00
For traveling libraries and books, including traveling libraries for charitable institutions, six thousand dollars, or so much thereof as may be necessary.	6,000 00

## DIVISION OF SCIENCE.

For salaries of the:

director, state geologist and paleontologist, four thousand five hundred dollars;	4,500 00
employees according to grade:	
tenth grade, four employees, nine thousand four hundred dollars;	

9,400 00

eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, three employees, four thousand three hundred dollars;	4,300 00
sixth grade, six employees, seven thousand twenty dollars;	7,020 00
fifth grade, four employees, three thousand four hundred eighty dollars;	3,480 00
fourth grade, three employees, two thousand one hundred sixty dollars;	2,160 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, four hundred eighty dollars.	480 00
For actual and necessary traveling expenses of the director and his assistants in the performance of their official duties, and for necessary services in preserving and increasing the collections of the state museum and for field operations and scientific investigations, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

#### TEMPORARY SERVICES.

For temporary services in the several divisions of the education department, except for the division of science and special institutes, fifteen thousand dollars, or so much thereof as may be necessary. No payments for temporary services in said department shall be made from any other appropriation in this act, except as herein indicated.	15,000 00
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#### POSTAGE, EXPRESS, ETC.

For postage, messages and transportation of letters, official documents and other matter sent by express or freight, including boxes or coverings for same, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00
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## PRINTING.

For all department printing including trustees' reports, school registers, and the Arbor day circular, forty-five thousand dollars, or so much thereof as may be necessary. No payments for printing for the department of education shall be made from any other appropriation in this act.

45,000 00

## TRAVELING EXPENSES.

For actual and necessary traveling expenses incurred in the performance of official duties in the visitation and inspection of common schools, high schools, academies, Indian schools, normal schools, colleges, universities, libraries and other institutions under the supervision of the education department; by the state examinations board and of lectures in the library school, twenty-one thousand dollars, or so much thereof as may be necessary. No payment for traveling expenses of said department except for the division of science, and for special institutes, shall be made from any other appropriation in this act

21,000 00

## OFFICE EXPENSES AND CARE OF ROOMS.

For services of elevatormen, porters, laborers, cleaners, for care of rooms occupied by the department, in the capitol, in the education building and in the other rooms and buildings temporarily occupied by the department, fourteen thousand dollars, or so much thereof as may be necessary.

14,000 00

For rent of rooms for storage, fifteen hundred dollars, or so much thereof as may be necessary.

1,500 00

For office fixtures and for furniture and all other necessary incidental expenses, twelve thousand dollars, or so much thereof as may be necessary.

12,000 00

## FARMERS' INSTITUTES.

For services of lecturers and instructors at farmers' institutes to be appointed and directed by the state education department, seven thousand five hundred dol-

lars, or so much thereof as may be necessary. Such appointees shall render such other services to the department throughout the year when not engaged in visiting farmers' institutes as may be required.

7,500 00

#### SPECIAL INSTITUTES AND UNIVERSITY CONVOCATIONS.

For actual and necessary traveling expenses and temporary services of speakers at special institutes, and the university convocation, two thousand dollars, or so much thereof as may necessary.

2,000 00

#### TRAINING OF TEACHERS.

For payment to academies and union schools designated by the commissioner of education for the professional training of teachers, and for the professional training of teachers in cities of the state pursuant to section five hundred and two of chapter one hundred and forty, laws of nineteen hundred and ten, being the education law, one hundred twenty-five thousand dollars. Not more than one hundred and fifteen training classes shall be established by the commissioner of education in any one year. Seven hundred dollars shall be paid to each school maintaining a class of not less than ten pupils in accordance with rules and regulations established by the commissioner of education. The balance of this appropriation after paying said schools for maintaining said training classes shall be apportioned to the cities of the state which maintain training schools in accordance with rules and regulations established by the commissioner of education ratably according to the aggregate days attendance of the pupils regularly admitted to said training school.

125,000 00

#### INDIAN SCHOOLS.

For support of Indian schools, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

## NORMAL SCHOOLS.

For maintenance of the state normal college and the state normal schools, four hundred eighty-five thousand dollars, or so much thereof as may be necessary, payable on the approval of the commissioner of education as follows:

485,000 00

of the state normal college at Albany, eighty thousand dollars;

of the state normal schools at:

Brockport, thirty-six thousand dollars;

Buffalo, thirty-eight thousand dollars;

Cortland, forty-five thousand dollars;

Fredonia, thirty-six thousand dollars;

Geneseo, forty-seven thousand dollars;

New Paltz, thirty-six thousand dollars;

Oneonta, forty-seven thousand dollars;

Oswego, forty thousand dollars;

Plattsburgh, thirty-six thousand dollars;

Potsdam, forty-four thousand dollars.

One thousand dollars shall be allowed to the president of the state normal college in addition to his salary in lieu of the residence heretofore provided and destroyed by fire in nineteen hundred and six, and the sum of three hundred dollars in addition to salary shall be allowed to the principal of each normal school not provided with a residence by the state.

In addition to the above appropriations fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the tuition fees and revenues from other sources received by the state treasurer from the several normal schools to be repaid to the schools from which received for their further support and maintenance. No part of the appropriation for the maintenance of normal schools shall be available for insurance of normal school buildings.

15,000 00

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## SCHOOL COMMISSIONERS.

For salaries of the school commissioners, twenty-eight thousand five hundred dollars, for three months, October first, nineteen hundred and eleven, to December thirty-first, nineteen hundred and eleven. 28,500 00

## DISTRICT SUPERINTENDENTS.

For salaries of district superintendents for the nine months January first to September thirtieth, nineteen hundred and twelve, pursuant to section three hundred and eighty-nine of chapter one hundred and forty, laws of nineteen hundred and ten, being the education law, one hundred eighty-six thousand three hundred dollars.. 186,300 00

For expenses, section three hundred and ninety of the education law, forty-six thousand five hundred seventy-five dollars, or so much thereof as may be necessary. 46,575 00

## COMMON SCHOOLS.

For support of the common schools of the state five million eighty-five thousand dollars, or so much thereof as may be necessary to be apportioned by the commissioner of education as supervision, district and teachers' quotas and for general industrial and trade schools on the basis provided by articles eighteen and twenty-two of the education law. He may in his discretion include in such apportionment an allowance not to exceed one hundred fifty dollars for the first teacher and one hundred dollars additional for each additional teacher for schools maintained by private enterprise or otherwise for a legal term, or a proportionate amount for a shorter time, and taught by duly licensed teachers for the benefit of children whose parents, or one of them are employed on public or corporate works under conditions making it impracticable for such children to be taken care of in the public schools of the locality where such work is being carried on and where it appears that such residence is only temporary. Before making

such apportionment the commissioner of education may set aside not to exceed ten thousand dollars, for a contingent fund.

5,085,000 00

#### CITIES, ACADEMIES, ACADEMIC DEPARTMENTS AND LIBRARIES.

For cities, union school districts, academies maintaining academic departments, and public school libraries, six hundred fifty thousand dollars, to be apportioned by the commissioner of education under regulations established by him in the manner directed by section four hundred and ninety-three of chapter twenty-one of the laws of nineteen hundred and nine, being the education law; but in the apportionment of moneys for nonresident pupils attending the academic department of public schools as provided in said chapter, the commissioner of education shall include nonresident pupils from districts not maintaining a four-year curriculum, providing such nonresident pupils shall have completed the course of studies maintained by the district in which they reside; and in such apportionment to cities whose customary charge for nonresident pupils is greater than the sum provided in said chapter, the commissioner of education may in his discretion permit the sum so apportioned to be applied upon such customary charge for such nonresident pupils from towns adjacent to such cities, provided the balance of such customary charge shall be assumed by the school district in which such nonresident pupil is resident and the payment thereof shall have been provided for at a school district meeting, held in such district.

650,000 00

The comptroller is hereby authorized to transfer to the general fund to meet the appropriations hereby made for educational purposes so much of the revenues of the trust funds as may be necessary, or which the investments will yield, not to exceed three hundred forty-nine thousand five hundred dollars as follows:

Common school fund, one hundred seventy-seven thousand dollars.



Literature fund, twelve thousand dollars.

United States deposit fund, one hundred sixty thousand five hundred dollars.

### ALFRED UNIVERSITY.

For maintenance of the State School of Clay Working and Ceramics at Alfred University, as provided by chapter three hundred and eighty-three, laws of nineteen hundred, eleven thousand five hundred eighty dollars, or so much thereof as may be necessary.

11,580 00

### NEW YORK INSTITUTION FOR THE BLIND.

For support and instruction of one hundred eighty pupils at the New York Institution for the Blind, fifty-eight thousand five hundred dollars, or a proportionate amount for a shorter period of time than one year, or for a smaller number of pupils, as shall be duly verified by the affidavits of the president and secretary of the institution.

58,500 00

### DEAF AND DUMB.

For support and instruction of three hundred pupils at the Institute for the Deaf and Dumb in New York city, the sum of ninety-seven thousand five hundred dollars.

97,500 00

For support and instruction of one hundred and thirty-five pupils at the Institution for the Improved Instruction of Deaf-Mutes in New York city, the sum of forty-three thousand eight hundred seventy-five dollars.

43,875 00

For support and instruction of one hundred and ten pupils at the Le Couteulx Saint Mary's Institution for the Improved Instruction of Deaf-Mutes, at Buffalo, in addition to the sum of six thousand three dollars twenty-two cents (re. \$6,003.22), remaining unexpended of appropriations heretofore made therefor, which is hereby reappropriated for the current and next fiscal years the further sum of twenty-nine thousand seven hundred forty-six dollars and seventy-eight cents.

29,746 78

For support and instruction of fifty-five pupils at the Central New York Institution for Deaf-Mutes at Rome, seventeen thousand eight hundred seventy-five dollars.	17,875 00
For support and instruction of sixty pupils at the Northern New York Institution for Deaf-Mutes, at Malone, nineteen thousand five hundred dollars.	19,500 00
For support and instruction of two hundred seventy pupils at Saint Joseph's Institution for the Improved Instruction of Deaf-Mutes at Fordham, eighty-seven thousand seven hundred fifty dollars.	87,750 00
For support and instruction of thirty pupils at the Albany Home School for the Deaf, the sum of nine thousand seven hundred fifty dollars.	9,750 00
For support and instruction of one hundred fifteen pupils at the Western New York Institution, at Rochester, for the improved instruction of deaf-mutes the sum of thirty-seven thousand three hundred seventy-five dollars.	37,375 00
The amount hereby appropriated for the several institutions for the support and instruction of deaf-mutes is at the rate of three hundred twenty-five dollars per capita for a school year of not less than forty weeks and a proportionate amount for a shorter period of time than one school year, or for a smaller number of pupils in each case, and shall be allowed in each of the items, and paid by the comptroller, upon certificate verified by oath of the president and the secretary, or other officer designated by law, of such institution, and upon the approval of the commissioner of education.	

## STATE HISTORIAN.

## For salaries of the:

state historian, four thousand five hundred dollars;	4,500 00
employees according to grade:	
seventh grade, one employee, one thousand five hundred dollars;	1,500 00

sixth grade, one employee, one thousand two hundred dollars;	1,200 00
second grade, one employee, three hundred eighty-four dollars.	384 00
For extra clerical services, furniture, books, blanks, printing, stationery, maps, messages and other necessary and incidental office expenses, five hundred dollars, or so much thereof as may be necessary.	500 00
For postage and transportation of packages, one thousand dollars, or so much thereof as may be necessary.	1,000 00

### AGRICULTURAL.

#### DEPARTMENT OF AGRICULTURE.

For salaries of the:

commissioner of agriculture, six thousand dollars;	6,000 00
one assistant commissioner, four thousand dollars;	4,000 00
one assistant commissioner, two thousand five hundred dollars;	2,500 00
chief of accounts, two thousand four hundred dollars;	2,400 00
veterinarian, three thousand dollars;	3,000 00
chief of bureau of horticulture and nursery inspection, two thousand five hundred dollars;	2,500 00
chief chemist, three thousand dollars;	3,000 00
farm inspector, three thousand dollars;	3,000 00
chemists, bacteriologists, physiologists and other scientific employees, thirteen thousand eight hundred dollars, or so much thereof as may be necessary;	13,800 00
employees according to grade:	
ninth grade, six employees, twelve thousand one hundred dollars;	12,100 00
eighth grade, thirteen employees, twenty-two thousand six hundred sixty dollars;	22,660 00
seventh grade, thirty-one employees, forty-six thousand five hundred dollars;	46,500 00
sixth grade, fifty-one employees, fifty-nine thousand seven hundred twelve dollars;	59,712 00

fifth grade, twenty-six employees, twenty-two thousand three hundred sixty dollars;	22,360 00
fourth grade, fifteen employees, ten thousand eight hundred dollars;	10,800 00
third grade, nine employees, five thousand four hundred dollars;	5,400 00
second grade, three employees, one thousand four hundred forty dollars;	1,440 00
first grade, one employee, three hundred sixty dollars.	360 00
For expenses of two special confidential detective agents, two thousand seven hundred dollars, or so much thereof as may be necessary.	2,700 00
For litigation, two thousand two hundred dollars, or so much thereof as may be necessary.	2,200 00
For railroad transportation of official delegates, appointed by the governor, to attend agricultural conventions in other states, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For special work to be paid on vouchers to be approved by the commissioner of agriculture, five hundred dollars, or so much thereof as may be necessary.	500 00
For repairs, office furniture and supplies, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For maintenance and extension of farmers' institutes held under the auspices of the commissioner of agriculture, including inspections of and recommendations concerning farms connected with state institutions as provided in the agricultural law, thirty-six thousand dollars, or so much thereof as may be necessary, to be paid upon the order of the commissioner of agriculture, and certified in sums as needed, and for which vouchers for expenditures duly audited and verified by him shall be rendered.	36,000 00
For the commissioner of agriculture, for traveling expenses, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00

For the first assistant commissioner located at Albany, for traveling expenses, seven hundred dollars, or so much thereof as may be necessary.	700 00
For actual and necessary traveling expenses of the assistant commissioners and employees, except the first assistant commissioner located at Albany, in the performance of their official duties, and for the actual and necessary incidental expenses of the department, sixty thousand dollars, or so much thereof as may be necessary, of which sum an amount not to exceed one thousand dollars may be advanced to the chief of accounts of the department of agriculture for miscellaneous emergency payments for labor and supplies, same to be accounted for on vouchers duly receipted and when so accounted for an additional amount may be drawn, provided the chief of account is bonded in the sum of not less than five thousand dollars and said bond is approved by and filed with the comptroller.	60,000 00
For the commissioner of agriculture, for the purposes of investigation and extermination of contagious diseases of plants, and San Jose scale, and other dangerously infectious or contagious insect pest or pests, or diseases, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For actual and necessary incidental expenses of the bureau of statistics, as provided by article twelve of the agricultural law, eight thousand dollars, or so much thereof as may be necessary.	8,000 00
For the purpose of enforcing the provisions of articles four and eight, chapter nine, laws of nineteen hundred and nine, being the agricultural law, relating to vinegar and foods, eleven thousand dollars, or so much thereof as may be necessary.	11,000 00
For expenses of the office and field work in enforcing the provisions of articles seven and nine, chapter nine, laws of nineteen hundred and nine, being the agricultural law, relating to concentrated commercial feeding	

stuffs and commercial fertilizers, seven thousand eight hundred dollars, or so much thereof as may be necessary.	7,800 00
For collecting and disseminating information relative to agricultural labor within the state, as provided by article twelve, chapter nine, laws of nineteen hundred and nine, being the agricultural law, three thousand six hundred dollars, or so much thereof as may be necessary.	3,600 00
For enforcing provisions of article five, chapter nine, laws of nineteen hundred and nine, being the agricultural law, eighty thousand dollars, or so much thereof as may be necessary. Provided, however, that no part of this fund shall be used for the payment of indemnities for animals destroyed by order of the commissioner of agriculture.	80,000 00
For enforcing the provisions of article three, chapter nine, laws of nineteen hundred and nine, being the agricultural law, relating to dairy products and other matters, seventeen thousand dollars, or so much thereof as may be necessary.	17,000 00

#### AGRICULTURAL EXPERIMENT STATION AT GENEVA.

To the commissioner of agriculture, for the New York State Agricultural Experiment Station, for enforcing the provisions of law in relation to commercial fertilizers, pursuant to section two hundred and twenty-four of chapter nine of the laws of nineteen hundred and nine, being the agricultural law, and for the expense of bulletins as provided therein, ten thousand dollars, or so much thereof as may be necessary, to be paid from license fees received by the state treasurer on fertilizers.	10,000 00
For expense of enforcing the provisions of the law in relation to concentrated feeding stuffs, as shall be authorized by the board of control, pursuant to section one hundred and sixty-four of chapter nine of the laws of nineteen hundred and nine, being the agricultural law,	

to be paid from license fees received by the state treasurer on concentrated feeding stuffs, three thousand five hundred dollars, or so much thereof as may be necessary.

3,500 00

To the board of control for the agricultural experiment station at Geneva:

For salaries of the scientific staff and clerical force, fifty-three thousand dollars, or so much thereof as may be necessary.

53,000 00

For labor, including engineers, janitors, laboratory helpers, gardeners, herdsman, teamsters, poultrymen, watchmen and other necessary labor, fifteen thousand eight hundred dollars, or so much thereof as may be necessary.

15,800 00

For necessary expenses in conducting researches in plant nutrition, diseases of plants, injurious insects, bacteriology, animal nutrition, dairy practice and poultry keeping, twenty-two thousand five hundred dollars, or so much thereof as may be necessary.

22,500 00

For general expenses, including heat, light, water, equipment, scientific apparatus, and farm implements and machinery and general repairs, five thousand five hundred dollars, or so much thereof as may be necessary.

5,500 00

#### ALFRED UNIVERSITY.

For maintenance of the State School of Agriculture at Alfred University, as provided by article forty-two, section ten hundred and seventy-two of chapter one hundred and forty of the laws of nineteen hundred and ten, being the education law, thirty thousand dollars, or so much thereof as may be necessary.

30,000 00

#### CORNELL UNIVERSITY.

For payment to Cornell University, being the interest at five per centum on the proceeds of the college land scrip fund pursuant to section ninety-seven of chapter fifty-eight of the laws of nineteen hundred and nine, being

the state finance law, thirty-four thousand four hundred twenty-eight dollars eighty cents.	34,428 80
For State Veterinary College at Cornell University for maintenance, equipment and necessary material to conduct the same, forty-seven thousand five hundred dollars, payable to the treasurer of Cornell University on the warrant of the comptroller.	47,500 00
For State College of Agriculture at Cornell University for the maintenance, equipment and necessary material to conduct the college of agriculture, two hundred twenty-five thousand dollars, payable to the treasurer of Cornell University on the warrant of the comptroller pursuant to section ten hundred and thirty-nine of chapter one hundred and forty of the laws of nineteen hundred and ten, being the education law.	225,000 00

## SAINT LAWRENCE UNIVERSITY.

For maintenance of the New York State School of Agriculture at Saint Lawrence University, as provided by article forty-one of chapter one hundred and forty of the laws of nineteen hundred and ten, being the education law, thirty-five thousand dollars, or so much thereof as may be necessary, said sum to be paid to the treasurer of said school in quarterly instalments upon his filing a suitable bond with the comptroller.	35,000 00
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## STATE SCHOOL OF AGRICULTURE AT MORRISVILLE.

For maintenance of the State School of Agriculture at Morrisville, as provided in article forty-three of the education law, and subject to the approval of the commissioner of agriculture, thirty-five thousand dollars, or so much thereof as may be necessary.	35,000 00
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## STATE FAIR COMMISSION.

For salaries of the:	
commission, seventeen thousand five hundred dollars;	17,500 00
officers of the commission, eight thousand two hundred dollars.	8,200 00



For expenses of the commission, four thousand dollars, or so much thereof as may be necessary.	4,000 00
insurance, four thousand dollars, or so much thereof as may be necessary.	4,000 00
maintenance and improvement of grounds and buildings and general repairs, three thousand dollars, or so much thereof as may be necessary.	3,000 00

**DEFENSIVE.****NATIONAL GUARD.**

For salaries of the:

adjutant-general, five thousand five hundred dollars;	5,500 00
for four assistant adjutants-general, two of the grade of colonel, three of the grade of lieutenant colonel, and a military storekeeper, grade of captain, fifteen thousand three hundred dollars;	15,300 00
employees according to grade:	
ninth grade, one employee, two thousand one hundred dollars;	2,100 00
eighth grade, four employees, six thousand nine hundred twenty-five dollars;	6,985 00
seventh grade, four employees, five thousand nine hundred dollars;	5,900 00
sixth grade, seven employees, seven thousand seven hundred sixty dollars;	7,760 00
fifth grade, five employees, four thousand four hundred dollars;	4,400 00
fourth grade, eight employees, five thousand seven hundred sixty dollars;	5,760 00
officers on the staff of the major-general commanding division national guard:	
adjutant-general, grade of lieutenant-colonel, three thousand dollars;	3,000 00
adjutant-general, grade of lieutenant-colonel, one thousand five hundred dollars;	1,500 00
inspector-general, grade of lieutenant-colonel, three thousand dollars;	3,000 00

lieutenant-colonel, ordnance department, three thousand dollars;	3,000 00
major, ordnance department, two thousand five hundred dollars;	2,500 00
employees according to grade:	
seventh grade, two employees, three thousand dollars;	3,000 00
sixth grade, two employees, two thousand two hundred dollars.	2,200 00
For allowances to headquarters of brigades, regiments, battalions and squadrons, and office of the chief of coast artillery, thirty-six thousand one hundred dollars, or so much thereof as may be necessary.	36,100 00
For allowances to officers to assist in uniforming and equipping themselves and for organizations for the purpose of defraying necessary military expenses, one hundred eighty thousand dollars, or so much thereof as may be necessary.	180,000 00
For payment of pensions to the members of the national guard and naval militia and their care when injured or disabled in service and for the expense of examination of claims for pensions, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For postage and transportation of letters, official documents or other matter sent by express or freight, including boxes or covering for same, for the adjutant-general, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For the headquarters division, national guard, seven hundred dollars, or so much thereof as may be necessary.	700 00
For actual and necessary expenses of the national guard and the office of the adjutant-general, two hundred thousand dollars, or so much thereof as may be necessary.	200,000 00

## NAVAL MILITIA.

For allowance to assist the headquarters of the naval militia and battalions, three thousand dollars, or so much thereof as may be necessary.	3,000 00
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For allowance to officers to assist in uniforming and equipping themselves and organizations for the purpose of defraying necessary military expenses, eight thousand two hundred fifty dollars, or so much thereof as may be necessary.	8,250 00
For other actual and necessary expenses of the naval militia, to be expended in accordance with the military law, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00

**PENAL.****STATE BOARD OF CLASSIFICATION.**

For salary of stenographer, seven hundred dollars.	700 00
For traveling and allowed expenses and other incidental and office expenses, one thousand dollars, or so much thereof as may be necessary.	1,000 00

**STATE PROBATION COMMISSION.**

For salaries of the:	
secretary, three thousand dollars;	3,000 00
employees according to grade:	
seventh grade, two employees, three thousand dollars;	3,000 00
fourth grade, one employee, seven hundred twenty dollars;	720 00
for temporary help, fifty dollars, or so much thereof as may be necessary.	50 00
For traveling expenses of the commissioners, secretary and other employees, while engaged in the discharge of their official duties, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For furniture, books, blanks, stationery, printing, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, three thousand dollars, or so much thereof as may be necessary.	3,000 00

For conferences of probation officers and magistrates and for exhibit, two hundred dollars, or so much thereof as may be necessary.	200 00
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## STATE COMMISSION OF PRISONS

For compensation of the commissioners, two thousand seven hundred dollars, or so much thereof as may be necessary.	2,700 00
For salaries of the:	
secretary, three thousand three hundred dollars;	3,300 00
employees according to grade:	
ninth grade, one employee, two thousand dollars;	2,000 00
sixth grade, two employees, two thousand four hundred dollars.	2,400 00
For actual and necessary traveling expenses of the commissioners and secretary in the performance of their official duties, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For actual and necessary traveling expenses of the inspector, four hundred dollars, or so much thereof as may be necessary.	400 00

## PRISON DEPARTMENT.

For salaries of the:	
superintendent of state prisons, six thousand dollars;	6,000 00
superintendent's clerk, four thousand dollars;	4,000 00
employees according to grade:	
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
seventh grade, four employees, five thousand four hundred dollars;	5,400 00
sixth grade, five employees, five thousand dollars;	5,000 00

fourth grade, one employee, seven hundred twenty dollars.	720 00
For actual and necessary traveling expenses of the superintendent and his clerks, in the performance of their official duties, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For support and maintenance of the several state prisons pursuant to chapter forty-seven of the laws of nineteen hundred and nine, being the prison law, and for the ordinary repairs and supplying water for Sing Sing, Auburn, Clinton and Great Meadow prisons, six hundred and forty thousand dollars, or so much thereof as may be necessary.	640,000 00
For the state prison for women at Auburn, pursuant to article five of chapter forty-seven, laws of nineteen hundred and nine, being the prison law, and for the transportation of women prisoners, twenty-six thousand dollars, or so much thereof as may be necessary.	26,000 00
For actual and necessary traveling expenses of the parole officers in the performance of their official duties, and for rewards for delinquent paroled prisoners, four thousand dollars, or so much thereof as may be necessary.	4,000 00

#### DANNEMORA HOSPITAL FOR INSANE CONVICTS.

For support and maintenance of the Dannemora Hospital for Insane Convicts, ninety-five thousand dollars, or so much thereof as may be necessary, but the salary of no officer in this institution shall exceed the salary fixed by the schedule of the lunacy commission for like position.	95,000 00
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## MATTEAWAN STATE HOSPITAL FOR INSANE CRIMINALS.

For support and maintenance of Matteawan State Hospital for Insane Criminals, one hundred sixty-five thousand dollars, or so much thereof as may be necessary, but the salary of no officer in this institution shall exceed the salary fixed by the schedule of the lunacy commission for like position. 165,000 00

## COMPENSATION OF SHERIFFS.

For compensation of sheriffs for the transportation of convicts to prisons, asylums for insane criminals, penitentiaries, houses of refuge and reformatories, twenty-five thousand dollars, or so much thereof as may be necessary. 25,000 00

## MAINTENANCE OF CONVICTS.

For maintenance of convicts sentenced to penitentiaries, as provided by section three hundred and twenty-four of chapter forty-seven of the laws of nineteen hundred and nine, being the prison law, and to convicts sentenced under sections twenty-three hundred and seventy and twenty-three hundred and seventy-one of chapter eighty-eight of the laws of nineteen hundred and nine, being the penal law, one hundred thousand dollars, or so much thereof as may be necessary. 100,000 00

## BOARD OF PAROLE FOR STATE PRISONS.

For compensation of the two members other than the superintendent of prisons at the rate of three thousand six hundred dollars per annum each, or at such other rate as may be prescribed by law, the sum of seven thousand two hundred dollars, or so much thereof as may be necessary. 7,200 00

For actual necessary traveling expenses, the sum of one thousand five hundred dollars, or so much thereof as may be necessary. 1,500 00

**CURATIVE.****STATE COMMISSION IN LUNACY.****For salaries of the:**

medical commissioner, seven thousand five hundred dollars;	7,500 00
legal commissioner, five thousand dollars;	5,000 00
lay commissioner, five thousand dollars;	5,000 00
medical inspector, five thousand dollars;	5,000 00
secretary, five thousand dollars;	5,000 00
auditor of state hospital estimates, four thousand dollars;	4,000 00

**Of the employees according to grade:**

eleventh grade, one employee, two thousand five hundred dollars;	2,500 00
ninth grade, one employee, two thousand dollars;	2,000 00
seventh grade, four employees, five thousand seven hundred dollars;	5,700 00
sixth grade, two employees, one thousand two hundred dollars each;	2,400 00
fifth grade, one employee, eight hundred dollars;	800 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, four hundred and twenty dollars;	420 00

For temporary clerical and expert services, one thousand five hundred dollars or so much thereof as may be necessary. 1,500 00

For the traveling and incidental expenses of the three commissioners, in performance of their official duties, one thousand two hundred dollars each; 3,600 00

For engineering services, as required, one thousand dollars, or so much thereof as may be necessary. 1,000 00

For the actual and necessary traveling expenses of the medical inspector, in the performance of his official duties, one thousand dollars, or so much thereof as may be necessary; 1,000 00

For the deportation of alien and nonresident lunatics to other countries and states; and for the transfer of patients from one hospital to another, twelve thousand six hundred dollars, or so much thereof as may be necessary.	12,600 00
For the salaries of the members of the board of alienists appointed under section nineteen of chapter thirty-two of the laws of nineteen hundred and nine, being the insanity law, fifteen thousand dollars.	15,000 00
For the actual and necessary expenses of the members of said board, in the performance of their official duties, six hundred dollars, or so much thereof as may be necessary.	600 00
For the services of interpreters and stenographer, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For office expenses, including rent, telephone, stationery and postage, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For compensation and actual and necessary traveling expenses of special agents, in the performance of their official duties, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00
For the maintenance of the psychiatric institute, under the direction of the state commission in lunacy, as provided by article seven of chapter thirty-two of the laws of nineteen hundred and nine, being the insanity law, thirty-one thousand five hundred dollars, or so much thereof as may be necessary.	31,500 00



## BUREAU OF HOSPITAL TREASURER.

For the salary of the:

treasurer, state hospitals, four thousand dollars;	4,000 00
of the employees according to grade:	
seventh grade, three employees, four thousand five hundred dollars;	4,500 00
sixth grade, two employees, two thousand four hundred dollars;	2,400 00
third grade, one employee, six hundred dollars;	600 00

## UTICA STATE HOSPITAL.

For maintenance, two hundred sixty-five thousand six hundred seventy dollars, or so much thereof as may be necessary.	265,670 00
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## WILLARD STATE HOSPITAL.

For maintenance, four hundred seven thousand one hundred seventy-five dollars, or so much thereof as may be necessary.	407,175 00
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## HUDSON RIVER STATE HOSPITAL.

For maintenance, five hundred sixty-seven thousand two hundred dollars, or so much thereof as may be necessary.	567,200 00
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## MIDDLETOWN STATE HOMEOPATHIC HOSPITAL.

For maintenance, three hundred seventy-eight thousand one hundred twenty-five dollars, or so much thereof as may be necessary.	378,125 00
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## BUFFALO STATE HOSPITAL.

For maintenance, three hundred seventy-three thousand seven hundred forty-five dollars, or so much thereof as may be necessary.	373,745 00
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## BINGHAMTON STATE HOSPITAL.

For maintenance, four hundred twenty-six thousand eight hundred seventy-five dollars, or so much thereof as may be necessary.	426,875 00
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## ST. LAWRENCE STATE HOSPITAL.

For maintenance, three hundred seventy-four thousand seven hundred thirty-five dollars, or so much thereof as may be necessary. 374,735 00

## ROCHESTER STATE HOSPITAL.

For maintenance, two hundred seventy-one thousand six hundred dollars, or so much thereof as may be necessary. 271,600 00

## GOWANDA STATE HOMEOPATHIC HOSPITAL.

For maintenance, two hundred thousand five hundred forty dollars, or so much thereof as may be necessary. 200,540 00

## KINGS PARK STATE HOSPITAL.

For maintenance, six hundred fifteen thousand two hundred eighty dollars, or so much thereof as may be necessary. 615,280 00

## LONG ISLAND STATE HOSPITAL.

For maintenance, one hundred sixty-seven thousand twenty dollars, or so much thereof as may be necessary. 167,020 00

## MANHATTAN STATE HOSPITAL.

For maintenance, six hundred thousand dollars, or so much thereof as may be necessary. 600,000 00

## CENTRAL ISLIP STATE HOSPITAL.

For maintenance, seven hundred twenty-seven thousand four hundred ninety dollars, or so much thereof as may be necessary. 727,490 00

## MOHANSIC STATE HOSPITAL.

For maintenance, thirty-five thousand dollars, or so much thereof as may be necessary. 35,000 00

**CHARITABLE.****STATE BOARD OF CHARITIES.**

For salary of the secretary, five thousand dollars.	5,000 00
For compensation of twelve commissioners, as provided by section five of chapter fifty-seven of the laws of nineteen hundred and nine, being the state charities law, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For salaries of the :	
superintendent of inspection, three thousand dollars;	3,000 00
employees according to grade:	
eleventh grade, one employee, two thousand five hundred dollars;	2,500 00
seventh grade, two employees, three thousand dollars;	3,000 00
sixth grade, three employees, three thousand six hundred dollars;	3,600 00
fifth grade, two employees, one thousand eight hundred dollars;	1,800 00
fourth grade, five employees, three thousand six hundred dollars;	3,600 00
third grade, one employee, six hundred dollars.	600 00
For temporary help, five hundred dollars, or so much thereof as may be necessary.	500 00
For actual and necessary expenses of the commissioners and secretary in the performance of their official duties, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For actual and necessary traveling expenses of the employees of the department in the performance of their official duties, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For furniture, rent, books, blanks, printing and other necessary and incidental office expenses, six thousand five hundred dollars, or so much thereof as may be necessary.	6,500 00

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
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## NEW YORK OFFICE.

For salaries of the:

superintendent, one thousand eight hundred dollars;	1,800 00
employees according to grade:	
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, one employee, one thousand five hundred dollars;	1,500 00
sixth grade, two employees, two thousand four hundred dollars;	2,400 00
fifth grade, two employees, one thousand eight hundred dollars;	1,800 00
fourth grade, one employee, seven hundred twenty dollars;	720 00
third grade, one employee, six hundred dollars.	600 00

## STATE AND ALIEN POOR.

For salaries of the:

superintendent, three thousand five hundred dollars;	3,500 00
deputy superintendent in New York city, one thousand eight hundred dollars;	1,800 00
employees according to grade:	
ninth grade, one employee, two thousand dollars;	2,000 00
seventh grade, two employees, three thousand dollars;	3,000 00
sixth grade, six employees, seven thousand two hundred dollars;	7,200 00
fifth grade, two employees, one thousand eight hundred dollars;	1,800 00
fourth grade, one employee, seven hundred twenty dollars;	720 00
third grade, one employee, six hundred dollars.	600 00

For actual and necessary traveling expenses of superintendent and inspectors in the performance of their official duties, three thousand seven hundred fifty dollars, or so much thereof as may be necessary.	3,750 00
For furniture, books, printing, messages and other necessary incidental office expenses, eight hundred dollars, or so much thereof as may be necessary.	800 00
For maintenance, transportation and removal of state, nonresident and alien poor, twenty-four thousand six hundred eleven dollars, or so much thereof as may be necessary.	24,611 00
It shall be the duty of the board in its annual report to the legislature to give a complete itemized statement of the expenditures for state paupers during the preceding fiscal year.	

#### FISCAL SUPERVISOR OF STATE CHARITIES.

##### For salaries of the:

fiscal supervisor of state charities, six thousand dollars;	6,000 00
deputy, three thousand five hundred dollars;	3,500 00
chief clerk, two thousand seven hundred fifty dollars;	2,750 00
inspector of buildings, heating and lighting, two thousand dollars;	2,000 00
two confidential inspectors, two thousand seven hundred dollars;	2,700 00
employees according to grade:	
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, two employees, three thousand six hundred dollars;	3,600 00
seventh grade, two employees, three thousand dollars;	3,000 00
sixth grade, four employees, four thousand dollars;	4,000 00
fifth grade, one employee, nine hundred dollars;	900 00
fourth grade, one employee, seven hundred twenty dollars;	720 00
third grade, one employee, six hundred dollars;	600 00

first grade, one employee, three hundred sixty dollars;	360 00
auditor of accounts, one thousand eight hundred dollars;	1,800 00
temporary clerical services, five hundred dollars.	500 00

For furniture, books, blanks, printing, messages, traveling expenses of inspectors, and other necessary and incidental office expenses, including the services of a competent person to examine the books, papers and accounts of any institution, as provided in article four of the state charities law, five thousand dollars, or so much thereof as may be necessary. 5,000 00

For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, two hundred fifty dollars, or so much thereof as may be necessary. 250 00

#### PURCHASING COMMITTEE OF STATE CHARITABLE INSTITUTIONS.

For the salary:

Of a clerk, who shall be a stenographer, shall attend to all the office business and correspondence of the purchasing committee of state charitable institutions, shall keep the minutes of the meetings of said committee and shall do the necessary stenographic work of said committee, one thousand five hundred dollars. 1,500 00

For necessary expenses of the purchasing committee of the state charitable institutions for advertising for proposals, making chemical analyses, printing, blanks, stationery and postage, one thousand dollars, or so much thereof as may be necessary. 1,000 00

For expenses of the semi-annual meeting of the state charitable institutions, to be held in Albany, including postage, et cetera, five hundred dollars, or so much thereof as may be necessary. 500 00

#### NEW YORK STATE HOSPITAL FOR THE CARE OF CRIPPLED AND DEFORMED CHILDREN, WEST HAVERSTRAW.

For maintenance, twenty-four thousand dollars, or so much thereof as may be necessary. 24,000 00

## NEW YORK STATE HOSPITAL FOR TUBERCULOSIS, RAYBROOK.

For maintenance of the institution, fifteen thousand six hundred seventy-six dollars six cents, or so much thereof as may be necessary. 15,676 06

## LETCHWORTH VILLAGE, THIELLS.

For maintenance, thirty thousand dollars, or so much thereof as may be necessary. 30,000 00

## NEW YORK HOUSE OF REFUGE, RANDALL'S ISLAND.

For the Society for the Reformation of Juvenile Delinquents in the city of New York, for maintenance and rewards to inmates and repairs and betterments of tools and equipment and furniture, and for necessary tools to properly conduct the trade school and common schools and military system and photographing of inmates, one hundred twelve thousand nine hundred forty-one dollars twenty-four cents, or so much thereof as may be necessary. 112,941 24

## NEW YORK STATE REFORMATORY FOR WOMEN, BEDFORD.

For maintenance and for transportation of those committed to it, seventy-two thousand thirty-four dollars forty-three cents, or so much thereof as may be necessary. 72,034 43

## ROME STATE CUSTODIAL ASYLUM, ROME.

For maintenance, one hundred eighty-five thousand five hundred eighty-one dollars fifty-one cents, or so much thereof as may be necessary. 185,581 51

## NEW YORK STATE SOLDIERS AND SAILORS' HOME, BATH.

For maintenance and for the transportation of applicants for admission, one hundred eleven thousand one hundred forty-seven dollars eighteen cents, or so much thereof as may be necessary. 111,147 18

## NEW YORK STATE SCHOOL FOR THE BLIND, BATAVIA.

For maintenance and instruction of the inmates, forty-five thousand six hundred eighty dollars, or so much thereof as may be necessary. 45,680 00

## SYRACUSE STATE INSTITUTION FOR FEEBLE-MINDED CHILDREN.

For maintenance, eighty-nine thousand four hundred twenty-eight dollars nine cents, or so much thereof as may be necessary. 89,428 09

## THOMAS INDIAN SCHOOL, IROQUOIS.

For maintenance, thirty-four thousand six hundred seventy-five dollars twenty-one cents, or so much thereof as may be necessary. 34,675 21

## NEW YORK STATE TRAINING SCHOOL FOR GIRLS, HUDSON.

For maintenance and for the transportation of those committed to it, eighty-four thousand one hundred fifty-six dollars eighteen cents, or so much thereof as may be necessary. 84,156 18

## WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION.

For maintenance and for the transportation of those committed to it, fifty-four thousand five hundred eighty-two dollars two cents, or so much thereof as may be necessary. 54,582 02

## NEW YORK STATE WOMAN'S RELIEF CORPS HOME, OXFORD.

For maintenance, thirty-four thousand nine hundred thirty-two dollars sixty-eight cents, or so much thereof as may be necessary. 34,932 68

## STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, INDUSTRY.

For maintenance of and rewards of inmates, repairs and betterments of tools, equipment and furniture, necessary tools to conduct the trade schools and common



schools and military system and photographing of inmates, one hundred sixty-five thousand eight hundred fifty-seven dollars eighty cents, or so much thereof as may be necessary.

165,857 80

#### CRAIG COLONY FOR EPILEPTICS, SONYEA.

For maintenance, two hundred four thousand seven hundred ninety-seven dollars fifty-two cents, or so much thereof as may be necessary.

204,797 52

#### NEW YORK STATE CUSTODIAL ASYLUM, NEWARK.

For maintenance and for other necessary expenses, one hundred thousand six hundred fifty-two dollars ninety-eight cents, or so much thereof as may be necessary.

100,652 98

#### EASTERN NEW YORK REFORMATORY, NAPANOCH.

For maintenance, seventy-one thousand seven hundred eighty-five dollars thirty-two cents, or so much thereof as may be necessary.

71,785 32

#### NEW YORK STATE REFORMATORY, ELMIRA.

For maintenance, ordinary repairs, purchase of material and for expenses of manufacturing, two hundred thirty-five thousand two hundred ninety-five dollars sixty-seven cents, or so much thereof as may be necessary.

235,295 67

### PROTECTIVE.

#### DEPARTMENT OF PUBLIC BUILDINGS.

For salaries of the:

superintendent, five thousand dollars;	5,000 00
deputy superintendent, three thousand five hundred dollars;	3,500 00
chief engineer, two thousand five hundred dollars;	2,500 00
chief orderly, one thousand five hundred dollars;	1,500 00
chief of the state hall division (janitor), eight hundred forty dollars;	840 00

chief of the agricultural and geological hall division (janitor), one thousand two hundred dollars;	1,200 00
chief of the machinery division (machinist and locksmith), one thousand two hundred dollars;	1,200 00
chief of the stone and tile division (stone and tile setter), one thousand two hundred dollars;	1,200 00
chief of the carpentry division (chief carpenter), one thousand two hundred dollars;	1,200 00
chief of the carpet and shade division (carpet and shademaker), one thousand dollars;	1,000 00
chief of the upholstery division (upholsterer), one thousand dollars;	1,000 00
chief of the painting division (painter), nine hundred dollars;	900 00
chief of Kingston senate house division (janitor), eight hundred dollars;	800 00
clerical force, as follows:	
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
sixth grade, three employees, three thousand six hundred dollars;	3,600 00
For services of orderlies, watchmen, engineers, firemen, carpenters, machinists, electricians, mechanics, cleaners, laborers, porters and other necessary employees in the care and maintenance of the public buildings, one hundred eighteen thousand eight hundred sixty dollars, or so much thereof as may be necessary.	118,860 00
For furniture, repairs, coal, fuel, water, machinery, fixtures, appliances, supplies and other necessary and incidental expenses, fifty thousand dollars, or so much thereof as may be necessary.	50,000 00

#### FOREST, FISH AND GAME COMMISSION.

For the salaries of the:

commissioner, six thousand dollars;	6,000 00
deputy commissioner, three thousand dollars;	3,000 00

employees according to grade:	
tenth grade, two employees, four thousand six hundred dollars;	4,600 00
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, one employee, one thousand seven hundred dollars;	1,700 00
sixth grade, three employees, three thousand two hundred dollars.	3,200 00
For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight including boxes or covering for same and other necessary and incidental office expenses, eight thousand dollars, or so much thereof as may be necessary.	8,000 00

## MARINE FISHERIES BUREAU.

For salaries of the:	
superintendent, three thousand dollars;	3,000 00
deputy superintendent, two thousand dollars;	2,000 00
one engineer, two thousand dollars;	2,000 00
confidential secretary, one thousand five hundred dollars;	1,500 00
employees according to grade:	
eighth grade, one employee, eighteen hundred dollars;	1,800 00
seventh grade, six employees, six thousand five hundred dollars;	6,500 00
sixth grade, one stenographer, one thousand two hundred dollars;	1,200 00
and for traveling expenses, rent of office, supplies, surveying shellfish lands and the purchase of a patrol boat, six thousand six hundred and fifty dollars.	6,650 00

## PROTECTION OF FOREST PRESERVE FROM FIRE.

For salaries of:	
five fire superintendents (at fifteen hundred), seven thousand five hundred dollars;	7,500 00

employees according to grade:  
 fifth grade, five employees, four thousand five hundred dollars. 4,500 00

## PROTECTION OF FISH AND GAME.

For salaries of the:

chief game protector, three thousand one hundred dollars; 3,100 00

employees according to grade:  
 eighth grade, five employees, eight thousand eight hundred dollars; 8,800 00

sixth grade, eight employees, nine thousand six hundred dollars; 9,600 00

fifth grade, eighty employees, seventy-two thousand dollars. 72,000 00

## PROPAGATION AND DISTRIBUTION OF FISH.

For the salary of the:

fish culturist, three thousand dollars; 3,000 00

employees according to grade:  
 sixth grade, nine employees, nine thousand seven hundred and twenty dollars; 9,720 00

and for the maintenance of fish hatcheries and hatchery stations, traveling expenses of fish culturists and messengers, purchase of fish eggs and miscellaneous expenses, forty-seven thousand two hundred and eighty dollars, or so much thereof as may be necessary. 47,280 00

## LEGAL DEPARTMENT.

For the salaries of the:

chief attorney, four thousand five hundred dollars; 4,500 00

one attorney, three thousand dollars; 3,000 00

employees according to grade:  
 seventh grade, one employee, one thousand five hundred dollars; 1,500 00

sixth grade, two stenographers, two thousand dollars; 2,000 00

for rent, furniture, books, stationery and printing, nine hundred and fifty dollars, or so much thereof as may be necessary. 950 00

## FORESTRY DEPARTMENT.

For the salaries of the:

superintendent of forests, three thousand dollars;	3,000 00
assistant superintendent of forests, two thousand dollars;	2,000 00
employees according to grade:	
eighth grade, two employees, three thousand four hundred dollars;	3,400 00
seventh grade, two employees, three thousand dollars;	3,000 00
sixth grade, three employees, thirty-six hundred dollars;	3,600 00
fifth grade, three employees, twenty-seven hundred dollars;	2,700 00
for general expenses, traveling, surveying, nursery work, reforesting lands, publishing instructive pamphlets, furnishing trees at cost to citizens of the state, making field studies and yield tables, determining the rate of growth of trees, et cetera, four thousand two hundred dollars, or so much thereof as may be necessary;	4,200 00

## GAME BIRD PROPAGATION.

For the salaries of the:

superintendent of the state game bird farm, fifteen hundred dollars.	1,500 00
For maintenance and expenses of game bird farm, for distribution of birds and supplying food and caring for the state's wild game, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00

## HUNTERS' LICENSE BUREAU.

For the salary of:

sixth grade, one employee, twelve hundred dollars.	1,200 00
For the expense of printing books and forms to be furnished city, town and county clerks and for postage and express on same, and to reimburse county clerks	

for making monthly reports to the commission and printing hunters' licenses, four thousand two hundred dollars, or so much thereof as may be necessary. 4,200 00

## LAND OFFICE.

For valuations, assessments and other actual and necessary expenses incurred in administering the laws relating to public lands, seven thousand five hundred dollars, or so much thereof as may be necessary. 7,500 00

## INDIAN AFFAIRS.

For payment of the annuities to the several Indian tribes, as follows:

Onondagas, two thousand four hundred thirty dollars;	2,430 00
Cayugas, two thousand three hundred dollars;	2,300 00
Senecas, five hundred dollars;	500 00
Saint Regis, two thousand one hundred thirty-one dollars sixty-seven cents.	2,131 67

For relief of the Onondaga Indians, three hundred dollars.	300 00
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For compensation of the agent of the Onondaga Indians, two hundred dollars.	200 00
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For compensation of the agent of the Onondaga Indians, pursuant to section twenty of chapter thirty-one of the laws of nineteen hundred and nine, being the Indian law, sixty-five dollars.	65 00
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For compensation of the agent of the Onondaga Indians, residing on the Allegany and Cattaraugus reservation, one hundred fifty dollars.	150 00
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For compensation of the attorney of the Saint Regis Indians, one hundred fifty dollars.	150 00
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For compensation of the attorney of the Seneca Indians, one hundred and fifty dollars.	150 00
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For compensation of the attorney of the Tonawanda band of Seneca Indians, one hundred fifty dollars.	150 00
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## NIAGARA RESERVATION.

For salaries of the:

superintendent, two thousand four hundred dollars;	2,400 00
watchmen, janitors, scrub-woman and for janitors' supplies, six thousand four hundred dollars, or so much thereof as may be necessary.	6,400 00
police, ticket-men and caretakers, eight thousand eight hundred dollars, or so much thereof as may be necessary.	8,800 00

For the commissioners' actual and necessary expenses in the performance of their official duties, superintendent's office expenses and actual and necessary traveling expenses in the performance of his official duties and for postage, messages and express charges, one thousand six hundred dollars, or so much thereof as may be necessary.	1,600 00
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For salaries of foremen, teamsters, laborers and other employees as required, and the purchase of materials, tools, lights, fuel and other necessary and incidental expenses, fifteen thousand dollars, or so much thereof as may be necessary.	15,000 00
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## SARATOGA MONUMENT.

For salary of janitor of the Saratoga monument, six hundred dollars, as provided by chapter five hundred fifty-five, laws of eighteen hundred and ninety-five.	600 00
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## WASHINGTON'S HEADQUARTERS, NEWBURGH.

For the trustees for compensation of the superintendent and assistants, and for the care, maintenance, repairs and improvements of the grounds, one thousand eight hundred dollars, or so much thereof as may be necessary.	1,800 00
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## GRANT COTTAGE.

For care and maintenance, as provided by chapter six hundred sixty-seven, laws of eighteen hundred and ninety-six, one thousand three hundred fifty dollars, or so much thereof as may be necessary.	1,350 00
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## SIR WILLIAM JOHNSON MANSION.

For the Johnstown Historical Society:

for salary of the superintendent or caretaker of the William Johnson mansion, seven hundred twenty dollars;	720 00
for salary of the assistant and extra labor, one hundred fifty dollars, or so much thereof as may be necessary;	150 00
for coal and incidental expenses, two hundred eighty dollars, or so much thereof as may be necessary.	280 00

## STONY POINT RESERVATION.

For salary of the custodian and caretaker, six hundred dollars, or so much thereof as may be necessary, payable monthly.	600 00
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**CONSTRUCTIVE.**

## OFFICE OF THE STATE ENGINEER AND SURVEYOR.

For salaries of the:

state engineer and surveyor, eight thousand dollars;	8,000 00
deputy state engineer and surveyor, five thousand dollars;	5,000 00
chief clerk, three thousand dollars;	3,000 00
employees according to grade:	
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, one employee, one thousand five hundred dollars;	1,500 00
sixth grade, two employees, two thousand two hundred dollars;	2,200 00
third grade, two employees, one thousand one hundred forty dollars;	1,140 00



For furniture, books, binding, blanks, printing and other necessary incidental office expenses, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, one thousand seven hundred fifty dollars, or so much thereof as may be necessary.	1,750 00
For traveling expenses of the state engineer and surveyor, two thousand five hundred dollars, payable quarterly in full for all such expenses.	2,500 00
For actual and necessary traveling expenses of the deputy state engineer and surveyor, in the performance of his official duties, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00

#### OFFICE OF THE STATE ARCHITECT.

For salaries of the:	
state architect, seven thousand five hundred dollars;	7,500 00
deputy state architect, five thousand dollars;	5,000 00
assistant deputy state architect, three thousand five hundred dollars;	3,500 00
private secretary, two thousand four hundred dollars;	2,400 00
chief draftsman, three thousand dollars;	3,000 00
engineer-in-chief, three thousand dollars;	3,000 00
electrical engineer, two thousand four hundred dollars;	2,400 00
structural engineer, two thousand two hundred fifty dollars;	2,250 00
heating engineer, two thousand two hundred fifty dollars;	2,250 00
sanitary engineer, two thousand two hundred fifty dollars;	2,250 00
designers, draftsmen and tracers, twenty-nine thousand dollars, or so much thereof as may be necessary;	29,000 00

employees according to grade:	
eighth grade, one employee, one thousand six hundred dollars;	1,600 00
seventh grade, two employees, two thousand eight hundred dollars;	2,800 00
sixth grade, five employees, five thousand two hundred dollars;	5,200 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, four hundred eighty dollars;	480 00
first grade, one employee, three hundred sixty dollars;	360 00
superintendents of contruction and building inspectors, twenty-three thousand dollars, or so much thereof as may be necessary;	23,000 00
engineering inspectors, four thousand seven hundred fifty dollars, or so much thereof as may be necessary.	4,750 00
For office supplies and expenses, six thousand dollars, or so much thereof as may be necessary.	6,000 00
For actual and necessary traveling expenses of the officers and employes of the department, in the performance of their official duties, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

## DEPARTMENT OF PUBLIC WORKS.

For compensation of the tender and for the maintenance and operation of the draw-bridge over Miniscoongo creek, Rockland county, six hundred dollars, or so much thereof as may be necessary, on the certificate of the superintendent of public works.	600 00
For operation, maintenance and repair of the draw-bridge known as Drake's draw-bridge, spanning Wappinger creek, in the village of New Hamburg, county of Dutchess, as provided by chapter two hundred thirty-nine, laws of eighteen hundred and ninety-two, four hundred dollars, or so much thereof as may be necessary.	400 00

## STATE WATER SUPPLY COMMISSION.

## For salaries of the:

state water supply commissioners, twenty-five thousand dollars;	25,000 00
consulting engineer, five thousand dollars;	5,000 00
assistant engineer, two thousand four hundred dollars;	2,400 00
secretary, three thousand dollars;	3,000 00
division engineer, three thousand three hundred dollars;	3,300 00
employees according to grade:	
eighth grade, two employees, three thousand six hundred dollars;	3,600 00
seventh grade, one employee, one thousand three hundred fifty dollars;	1,350 00.
sixth grade, one employee, one thousand two hundred dollars;	1,200 00
fifth grade, six employees, five thousand four hundred dollars;	5,400 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, four hundred eighty dollars.	480 00

For actual and necessary traveling expenses of the five commissioners in the performance of their official duties, two thousand five hundred dollars, or so much thereof as may be necessary. 2,500 00

For actual necessary traveling expenses of the engineer and secretary, in the performance of their official duties, five hundred dollars, or so much thereof as may be necessary. 500 00

For office rent, one thousand one hundred twenty dollars, or so much thereof as may be necessary. 1,120 00

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, bulletins and exhibits, janitor service and other necessary incidental office expenses, two thousand six hundred dollars, or so much thereof as may be necessary. 2,600 00

## DEPARTMENT OF HIGHWAYS.

## BUREAU OF TOWN HIGHWAYS.

## For the salaries:

of one assistant to second deputy, two thousand dollars;	2,000 00
of ten district supervisors, sixteen thousand dollars;	16,000 00
of employees according to grade:	
seventh grade, four employees, six thousand dollars;	6,000 00
sixth grade, two employees, two thousand four hundred dollars;	2,400 00
fourth grade, two employees, one thousand four hundred and forty dollars.	1,440 00

For the purchase of account books, order books, blanks and other supplies for the use of the bureau and of the town and county officials, the sum of two thousand dollars, or so much thereof as may be necessary.	2,000 00
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For postage, express and freight, two thousand dollars, or so much thereof as may be necessary.	2,000 00
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For the traveling expenses of the assistant to the second deputy, the ten district supervisors and other employees, twelve thousand dollars, or so much thereof as may be necessary.	12,000 00
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**GENERAL.**

## BANKING DEPARTMENT.

## For the salaries of the:

superintendent, seven thousand dollars;	7,000 00
for his actual and necessary traveling expenses in the performance of his official duties, four hundred sixty-three dollars eight cents, or so much thereof as may be necessary;	463 08
first deputy superintendent, five thousand dollars;	5,000 00
second deputy superintendent, four thousand five hundred dollars;	4,500 00
third deputy superintendent, four thousand dollars;	4,000 00
confidential clerk and private secretary, three thousand five hundred dollars;	3,500 00
chief clerk, two thousand four hundred dollars;	2,400 00

employees according to grade:	
seventh grade, four employees, five thousand nine hundred dollars;	5,900 00
sixth grade, six employees, seven thousand dollars;	7,000 00
fifth grade, one employee, nine hundred dollars;	900 00
second grade, night watchman, four hundred twenty dollars.	420 00
For rent of branch office in the city of New York, two thousand six hundred seventy-five dollars, or so much thereof as may be necessary.	2,675 00
For furniture, books, binding, blanks, printing and other incidental office expenses, twelve thousand dollars, or so much thereof as may be necessary.	12,000 00
For a contingent fund to be used for the expenses of appraising property, and other contingent expenses in connection with the administration of the banking department, one thousand four hundred dollars.	1,400 00
For payment of examiners for the examination of corporations and individual bankers, pursuant to the banking law, seventy thousand dollars, or so much thereof as may be necessary.	70,000 00
The amounts required for the aforesaid salaries, clerk hire, payment of examiners and other expenses, shall be refunded to the state treasury, in accordance with the provisions contained in the banking law.	

#### INSURANCE DEPARTMENT.

For salaries of the:	
superintendent of insurance, seven thousand dollars;	7,000 00
for his actual and necessary traveling expenses in the performance of his official duties, one thousand five hundred dollars, or so much thereof as may be necessary;	1,500 00
first deputy superintendent of insurance, five thousand dollars;	5,000 00
for his actual and necessary traveling expenses in the performance of his official duties, one thousand dollars, or so much thereof as may be necessary;	1,000 00

second deputy superintendent of insurance, five thousand dollars;	5,000 00
third deputy superintendent of insurance, four thousand five hundred dollars;	..
counsel, five thousand dollars;	4,500 00
actuary, five thousand dollars;	5,000 00
first assistant actuary, three thousand two hundred dollars;	5,000 00
assistant actuary, three thousand dollars;	3,200 00
chief clerk, three thousand six hundred dollars;	3,000 00
chief of the liquidation bureau, four thousand dollars;	3,600 00
chief of the bureau of co-operative companies, four thousand dollars;	4,000 00
cashier and tax clerk, three thousand five hundred dollars;	4,000 00
statistician, two thousand seven hundred dollars;	3,500 00
general clerk, liquidation bureau, two thousand five hundred dollars;	2,700 00
registrar, two thousand five hundred dollars;	2,500 00
employees according to grade:	2,500 00
tenth grade, three employees, seven thousand two hundred dollars;	
ninth grade, three employees, six thousand one hundred dollars;	7,200 00
eighth grade, four employees, seven thousand two hundred dollars	6,100 00
seventh grade, seventeen employees, twenty-five thousand five hundred dollars;	7,200 00
sixth grade, twenty-one employees, twenty-five thousand dollars;	25,500 00
fifth grade, sixteen employees, fourteen thousand four hundred dollars;	25,000 00
fourth grade, two employees, one thousand four hundred forty dollars.	14,400 00
For rent of branch office, New York city, eight thousand dollars, or so much thereof as may be necessary.	1,440 00
For printing and binding insurance reports, six thousand dollars, or so much thereof as may be necessary.	8,000 00
	8,000 00

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and necessary incidental office expenses, including New York office, the sum of thirty-five thousand dollars, or so much thereof as may be necessary.	35,000 00
For actual and necessary traveling expenses of the department employees in the performance of their official duties, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For expenses of computation, compilation and publication of new valuation table for valuations, and other incidental expenses therewith to carry into effect the provisions of section eighty-four, chapter thirty-three, of the laws of nineteen hundred and nine, being the insurance law, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For salaries of the:	
auditor and assistant actuary, New York city, five thousand dollars;	5,000 00
assistant auditor, New York city, three thousand dollars;	3,000 00
expert appraiser, New York city office, four thousand dollars, or so much thereof as may be necessary.	4,000 00
For furnishings, New York office, two thousand dollars, or so much thereof as may be necessary.	2,000 00
The following appropriations to be collected from and refunded to the treasury by the corporations under examination when disbursements therefrom are in consequence of service had or in connection with such examination:	
For salaries of:	
four chief examiners, not to exceed nineteen thousand dollars;	19,000 00
eleven examiners and thirty assistant examiners, ninety-six thousand seven hundred dollars.	96,700 00

For services and expenses of department appraisers in the state, for services and expenses of appraisers and examiners designated in other states, for services and expenses of counsel and for expenses of examiners in connection with examination of insurance companies and for extra temporary services when required, forty thousand dollars, or so much thereof as may be necessary.

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40,000 00

#### COUNTY TREASURERS.

For advances to county treasurers on account of taxes on property of nonresidents, and for taxes on state, wild or forest lands which may be returned to the comptroller's office, and for adjusting accounts of state taxes with counties, one hundred thousand dollars, or so much thereof as may be necessary.

100,000 00

#### STATIONERY.

For stationery for the governor, secretary of state, comptroller, treasurer, attorney-general, state engineer and surveyor, commissioner of education, adjutant-general, clerk of the court of appeals, state board of charities, state department of health, civil service commission, superintendent of public buildings, fiscal supervisor of state charities, and department of labor, fourteen thousand dollars, or so much thereof as may be necessary.

14,000 00

#### JUDGMENTS FOR COSTS.

For payment of judgments against the state for costs duly awarded in certain actions, brought pursuant to law, to be paid upon the certificate of the attorney-general, sixteen thousand dollars, or so much thereof as may be necessary.

16,000 00



**FROM THE HIGHWAY IMPROVEMENT FUND.**

## DEPARTMENT OF HIGHWAYS.

For salaries of the:

commissioners, sixteen thousand dollars;	16,000 00
two deputies, seven thousand dollars;	7,000 00
secretary, three thousand five hundred dollars;	3,500 00
employees according to grade:	.
seventh grade, two employees, three thousand dollars;	3,000 00
sixth grade, three employees, three thousand six hundred dollars;	3,600 00
fifth grade, four employees, three thousand six hundred dollars;	3,600 00
fourth grade, five employees, three thousand four hundred twelve dollars;	3,412 00
third grade, one employee, six hundred dollars;	600 00
second grade, one employee, four hundred eighty dollars;	480 00
second grade, two employees, seven hundred thirty dollars.	730 00

## BUREAU OF AUDIT AND FINANCE.

For the salaries:

of one auditor, three thousand dollars;	3,000 00
of employees according to grade:	.
ninth grade, one employee, two thousand dollars;	2,000 00
eighth grade, one employee, one thousand eight hundred dollars;	1,800 00
seventh grade, one employee, one thousand five hundred dollars;	1,500 00
fifth grade, two employees, one thousand eight hundred dollars.	1,800 00

## BUREAU OF RESEARCH.

For the salary of chief, three thousand dollars.	3,000 00
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## DIVISION ENGINEERS' OFFICE.

## For the salaries:

of six division engineers, eighteen thousand dollars;	18,000 00
six stenographers of the division engineers, five thousand two hundred twenty dollars.	5,220 00

## MISCELLANEOUS.

For the traveling expenses of the commissioners and other employees, eighteen thousand dollars, or so much thereof as may be necessary.	18,000 00
For postage, printing, blanks, office supplies, express, telephone and telegraph charges, and rents and maintenance of head office and furniture for the same, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For extra stenographic and clerical assistance, one thousand dollars, or so much thereof as may be necessary.	1,000 00

## BUREAU OF MAINTENANCE AND REPAIRS OF IMPROVED HIGHWAYS.

## For the salaries:

of six assistants to the first deputy, twelve thousand dollars;	12,000 00
of the employees according to grade:	
seventh grade, one employee, one thousand four hundred dollars;	1,400 00
fifth grade, eight employees, six thousand seven hundred dollars;	6,700 00
fourth grade, one employee, six hundred twenty-five dollars.	625 00

## For salaries:

seventh grade, nineteen employees, twenty-six thousand seven hundred fifty dollars;	26,750 00
sixth grade, five employees, five thousand five hundred dollars.	5,500 00

For the traveling expenses of the assistants, eight thousand five hundred dollars, or so much thereof as may be necessary;	8,500 00
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and of the highway inspectors in charge of sections, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For office supplies and expenses, the sum of two thousand dollars, or so much thereof as may be necessary.	2,000 00

## BUREAU OF HIGHWAYS — COMPTROLLER'S OFFICE.

For salaries of employees according to grade:	
ninth grade, highway audit clerk, two thousand dol- lars;	2,000 00
sixth grade, one employee, one thousand dollars.	1,000 00
For the Bank of Manhattan Company, New York, for keeping transfer office and for stationery for same, two thousand dollars, or so much thereof as may be necessary.	2,000 00

**FROM THE CANAL FUND.**

## DEPARTMENT OF PUBLIC WORKS.

For salaries of the:	
superintendent of public works, six thousand dollars;	6,000 00
deputy superintendent, five thousand dollars;	5,000 00
assistant to the deputy, two thousand five hundred dollars;	2,500 00
three assistant superintendents, nine thousand dollars;	9,000 00
financial clerk, three thousand six hundred dollars;	3,600 00
assistant financial clerk, two thousand seven hundred dollars;	2,700 00
employees according to grade:	
eighth grade, two employees, three thousand four hun- dred dollars;	3,400 00
seventh grade, seven employees, nine thousand nine hundred dollars;	9,900 00
sixth grade, three employees, three thousand two hun- dred dollars;	3,200 00

fifth grade, three employees, two thousand seven hundred dollars;	2,700 00
first grade, one employee (janitress), one hundred forty-four dollars, or so much thereof as may be necessary.	144 00
For actual and necessary traveling expenses of the assistant superintendents of public works, in the performance of their official duties, one thousand five hundred dollars, or so much thereof as may be necessary;	1,500 00
for additional clerk hire, and necessary and incidental office expenses of the superintendent and assistant superintendents of public works, collectors and inspectors, ten thousand five hundred dollars, or so much thereof as may be necessary.	10,500 00
For actual and necessary traveling expenses of the superintendent in the performance of his official duties, two thousand dollars, or so much thereof as may be necessary;	2,000 00
of the deputy superintendent of public works, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For salaries of:	
seventeen section superintendents, twenty-six thousand dollars;	26,000 00
tenth grade, one employee, two thousand four hundred dollars;	2,400 00
collectors and compilers of statistics relating to the trade and tonnage of the canals during the season of navigation, eight thousand twenty-five dollars, comprising two collectors at one hundred twenty-five dollars each per month, five collectors at one hundred dollars each per month, and four collectors at eighty dollars each per month;	8,025 00
collectors, clerks and inspectors and measurers of boats, seven thousand two hundred thirty-eight dollars, comprising three clerks at eighty dollars each per	

month, five clerks at seventy-five dollars each per month, and five clerks at seventy dollars each per month.	7,238 00
For payment of the expenses of lock-tending and the ordinary repairs of the canals of the state, eight hundred thousand dollars, or so much thereof as may be necessary.	800,000 00
For compensation of gate tenders of the state dams upon the Beaver and Moose rivers, as provided by chapter one hundred sixty-eight, laws of eighteen hundred and ninety-four, one thousand one hundred dollars, or so much thereof as may be necessary, to be paid by the comptroller on the certificate of the commissioners appointed under said act, or a majority thereof.	1,100 00
<b>BUREAU OF CANAL AFFAIRS — COMPTROLLER'S OFFICE.</b>	
For salaries of the:	
chief clerk, three thousand dollars;	3,000 00
employees according to grade:	
ninth grade, two employees, four thousand one hundred dollars;	4,100 00
seventh grade, one employee, one thousand five hundred dollars;	1,500 00
night watchman, three hundred sixty-five dollars;	365 00
transfer agent, one thousand two hundred dollars.	1,200 00
For printing, advertising and other necessary incidental office expenses of the bureau, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the Bank of Manhattan Company, New York, for keeping transfer office and for stationery for same, three thousand dollars.	3,000 00

#### STATE ENGINEER AND SURVEYOR.

For salaries, compensation and necessary expenses of the engineers employed upon the ordinary repairs of canals, thirty thousand dollars, or so much thereof as may be necessary.	30,000 00
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**PAYABLE FROM THE MILITARY RECORD FUND.**

For the adjutant-general, for the expenses of the bureau of military records, payable from the revenue of the military record fund, two thousand dollars, or so much thereof as may be necessary. 2,000 00

**PAYABLE FROM THE CAPITAL FUND.****PRISON DEPARTMENT.**

For the salaries:

of one sales agent, four thousand dollars;	4,000 00
one clerk, manufacturing department, three thousand six hundred dollars;	3,600 00
two superintendents of industries, seven thousand two hundred dollars, or so much thereof as may be necessary;	7,200 00
one superintendent of industries, two thousand five hundred dollars;	2,500 00
one assistant superintendent of industries, one thousand eight hundred dollars;	1,800 00
one master mechanic, three thousand dollars;	3,000 00
one financial agent, New York city, two thousand four hundred dollars;	2,400 00
one financial agent, Sing Sing, one thousand eight hundred dollars;	1,800 00
two foremen, four thousand eight hundred dollars, or so much thereof as may be necessary;	4,800 00
of the employees according to grade:	
ninth grade, three employees, six thousand one hundred dollars;	6,100 00
eighth grade, three employees, five thousand four hundred dollars;	5,400 00
seventh grade, eight employees, eleven thousand six hundred dollars;	11,600 00
sixth grade, twenty-six employees, twenty-nine thousand eight hundred fifty-six dollars;	29,856 00
fifth grade, forty-six employees, thirty-six thousand four hundred ninety dollars;	36,490 00
third grade, two employees, one thousand two hundred dollars;	

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2,200 00

first grade, four employees, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
For extra foreman and instructor, two thousand dollars	2,000 00
No other salaries or compensation for services shall be paid from the capital fund except as above provided.	

§ 2. The several amounts herein appropriated shall be paid by the treasurer from the respective sums specified, pursuant to the requirements of the state finance law, and it shall be the duty of the treasurer to report annually to the legislature the detail of the several expenditures. The salary or compensation of any officer or employee, when not prescribed by law, for which an appropriation is made by this act, may be fixed by the department, official or officials appointing such officer, or employing such employee, at a less, but not a greater sum than the amount herein appropriated for the salary or compensation of such officer or employee. No appropriation herein contained shall be available for the salary or compensation of any regular officer or employee whose employment or office is not herein specified unless his appointment or employment is expressly authorized, and except as otherwise herein expressly provided, the appropriations made in this act for traveling expenses of officers or employees are for actual and necessary expenses only, in the performance of official duties and to be paid upon proper proof thereof, as required by section twelve of the state finance law, and no other or further or fixed allowance for expenses shall be granted or paid, anything in any other statute to the contrary notwithstanding.

The appropriations made in this act for the salaries of employees by grades are intended to refer to such grades as established by, and in accordance with, chapter fifteen of the laws of nineteen hundred and nine, being the civil service law, and such appropriations shall be available for the salaries of employees in any grade lower than the one specified in the appropriation act.

A manager, trustee or officer of any state charitable or other institution receiving moneys under this act from the state treasury, for maintenance and support, shall be entitled to actual and necessary traveling expenses when attending meetings of the board at the office of the institution or in the performance of other offi-

cial duties undertaken pursuant to a resolution of the board of managers of which he is a member or with the approval of the fiscal supervisor of state charities.

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(No. 12.)

By Mr. Colne, amend Assembly bill, printed number 549 as follows: Strike out of the title everything after "To" and insert thereof the following: Amend the general corporation law, in relation to corporate names.

Page one, strike out lines 1 to 10, inclusive, and insert in place thereof the following:

Section 1. Section six of chapter twenty-eight of the laws of nineteen hundred and nine, entitled "An act relating to corporations generally, constituting chapter twenty-three of the consolidated laws," is hereby amended to read as follows:

§ 6. Corporate names. 1. No certificate of incorporation of a proposed corporation having the same name as a corporation authorized to do business under the laws of this state, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of effecting its corporation, or of authorizing it to do business in this state; *nor shall any such certificate be so filed or recorded nor any foreign corporation be authorized to do business in this state unless the name of the proposed corporation or of such foreign corporation, as the case may be, has such word or words, abbreviation, affix or prefix, therein or thereto, as will clearly indicate that it is a corporation as distinguished from a natural person, firm or copartnership.* A corporation formed by the reincorporation, reorganization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded. No corporation shall be hereafter organized under the laws of this state with the word "trust," "bank," "banking," "insurance," "assurance," "indemnity," "guarantee," "guaranty," "title," "savings," "investment," "loan" or "benefit"



as part of its name, except a corporation formed under the banking law or the insurance law.

2. No corporation, society or association, whether now existing or hereafter organized under or by virtue of the laws of this state, shall ever employ the words "Lucretia Mott" to designate, describe or name any hospital, infirmary or dispensary, or any part thereof, or any similar institution.

Page 1, line 11, change the numeral "3" to "2."

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(No. 13.)

AN ACT to amend the Greater New York charter in relation to compensation of employees in the labor class.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The Greater New York Charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended by adding thereto, after section fifty-six thereof, a new section, to be section fifty-six-a, to read as follows:

Compensation of employees in the labor class:

§ 56-a. The board of aldermen, subject to the approval of the mayor, shall fix the compensation of employees in the labor class as that class is defined by the Municipal Civil Service Commission.

§ 2. This act shall take effect immediately.

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(No. 14.)

AN ACT to amend the public service commission law in relation to telephone lines and telephone corporations, regulating charges.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section ninety-one of chapter four hundred and eighty of the laws of nineteen hundred and ten, entitled "An act

in relation to public service commissions, constituting chapter forty-eight of the consolidated laws," as amended by chapter six hundred and seventy-three of the laws of nineteen hundred and ten, is hereby amended to read as follows:

§ 91. Adequate service; just and reasonable charges; unjust discrimination; unreasonable preference. 1. Every telegraph corporation and every telephone corporation shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made or demanded by any telegraph corporation or telephone corporation for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order of the commission. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order of the commission is prohibited and declared to be unlawful.

2. No telegraph corporation or telephone corporation shall directly or indirectly or by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to communication by telegraph or telephone or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to communication by telegraph or telephone under the same or substantially the same circumstances and conditions. *The same circumstances and conditions shall be deemed to prevail throughout any incorporated city or village.*

3. No telegraph corporation or telephone corporation shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

4. [Nothing in this chapter shall be construed to prevent any telegraph corporation or telephone corporation from continuing to furnish the use of its lines, equipment or service under any contract or contracts in force at the date this article takes effect or

upon the taking effect of any schedule or schedules of rates subsequently filed with the commission, as hereinafter provided, at the rate or rates fixed in such contract or contracts; provided, however, that when any such contract or contracts are or become terminable by notice, the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the telegraph corporation or telephone corporation party thereto, and thereupon such contract or contracts shall be terminated by such telegraph corporation or telephone corporation as and when directed by such order.] *Every telephone corporation shall, upon application, install and furnish unlimited service within the incorporated limits of any city or village in this state, where it may maintain an exchange, at a charge of not more than fifty dollars per annum for the use of a telephone on a separate pair of wires in a residence; and not more than one hundred and twenty-five dollars per annum for a telephone on a separate pair of wires in a business office; and not more than one hundred dollars per annum for each additional pair of wires to the same office, and not more than ten dollars per annum for any switchboard, and not more than six dollars per annum for each extension telephone, which service and equipment shall at least equal the standard of the present service and equipment of said company.*

5. Nothing in this chapter shall be construed to prevent any telegraph corporation or telephone corporation from continuing to furnish the use of its lines, equipment or service under any contract or contracts in force at the date this article takes effect, or upon taking effect, of any schedule or schedules of rates subsequently filed with the commission, as hereinafter provided, at the rate or rates fixed in such contract or contracts; provided, however, that when any such contract or contracts are or become terminable by notice, the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the telegraph corporation or telephone corporation party thereto, and thereupon such contract or contracts shall be terminated by such telegraph corporation or telephone corporation as and when directed by such order.

§ 2. This act shall take effect on the first day of June, nineteen hundred and eleven.

(No. 15.)

AN ACT to amend the agricultural law, in relation to inspection and sale of seeds.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Article fifteen and sections three hundred and forty and three hundred and forty-one of chapter nine of the laws of nineteen hundred and nine, entitled "An act in relation to agriculture, constituting chapter one of the consolidated laws," are hereby renumbered to be article sixteen and sections three hundred and sixty and three hundred and sixty-one, respectively.

§ 2. Such chapter is hereby amended by adding thereto a new article, to be article fifteen thereof, to read as follows:

## ARTICLE 15.

### INSPECTION AND SALE OF SEEDS.

Section 340. Inspection and sale of seeds.

341. Samples, publication of results of examination.

§ 340. Inspection and sale of seeds. Within the meaning of this article, "agricultural seeds" are defined as the seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome (awnless) grass, buckwheat, alsike clover, crimson clover, red clover, white clover, field corn, Kaffir corn, meadow fescue, flax, millet, oats, orchard grass, rape, red top, rye, sorghum, timothy and wheat which are to be used for sowing or seeding purposes. No wholesale or retail dealer shall sell, offer, expose or have in his possession for sale for the purpose of seeding, any cereals or seeds of grass or clovers, of the kind known as agricultural seeds containing in excess of three per centum by count of foul or foreign seeds, unless every receptacle, package, sack or bag containing such seeds is plainly marked or labeled with the per centum of such foul or foreign seeds contained therein.

§ 341. Samples, publication of results of examination. The commissioner of agriculture or his duly authorized representatives shall take samples of seed in triplicate in the presence of at least one witness and in the presence of such witness shall seal such

samples and shall at the time of taking tender, and if accepted, deliver to the person apparently in charge one of such samples; one of the other samples the commissioner of agriculture shall cause to be analyzed. The director of the New York agricultural experiment station shall analyze or cause to be analyzed such samples of seeds taken under the provisions of this article as shall be submitted to him for that purpose by the commissioner of agriculture and shall report such analysis to the commissioner of agriculture, and for this purpose the New York agricultural experiment station may employ chemists and incur such expenses as may be necessary to comply with the requirements of this article. The result of the analysis of the sample or samples so procured, together with such additional information as circumstances advise, shall be published in reports or bulletins from time to time.

§ 3. This act shall take effect July first, nineteen hundred and eleven.

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(No. 16.)

AN ACT to amend the general business law, in relation to auctioneers and sales at auction in the city of New York.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Article three of the general business law, constituting chapter twenty of the consolidated laws, is hereby amended by adding thereto two new sections, to be sections twenty-five and twenty-six thereof, respectively, to read as follows:

§ 25. *Auctioneers in the city of New York. The commissioner of licenses or other licensing authority designated in the charter of the city of New York shall have authority to grant licenses to any person engaged in and carrying on the business and occupation of auctioneer, or desiring to be so engaged, on payment of the sum of one hundred dollars per annum, on such person filing a bond, approved by said commissioner of licenses or other licensing authority designated in the charter with two good sureties in the penal sum of five thousand dollars. The commissioner of licenses of said city shall issue without cost to each person to whom*

an auctioneer's license is granted a metallic badge which shall be numbered on the face thereof and shall contain the words "Licensed auctioneer of the city of New York," with the year of issue and shall be in such form as may be prescribed by the commissioner. In the event of an auctioneer to whom a license has been granted discontinuing the auction business during the year for which he has obtained said license, a proportionate share of said license fee of one hundred dollars shall be returned to him for the unexpired term of the year for which said license was obtained. The commissioner of licenses of said city, on complaint of any person having been defrauded by any auctioneer, or by the clerk, agent or assignee of such auctioneer, doing business in said city, is authorized and directed to take testimony under oath relating thereto; and if the charge shall, in his opinion, be sustained, he shall revoke the license granted to such auctioneer, and direct his bonds to be forfeited. No person shall hereafter carry on the business of auctioneer in the city of New York without having first obtained from the commissioner of licenses or other licensing authority designated in the charter of said city a license authorizing such person, persons, corporation or association to carry on the business of auctioneer. Whenever the commissioner of licenses or other licensing authority designated in the charter of said city shall refuse to issue or shall revoke the license of an auctioneer said determination may be reviewed by certiorari. Any person who shall offer for sale, or sell goods of any description, wares, merchandise, real or personal property at vendue or auction without having first obtained from the commissioner of licenses or other licensing authority designated in the charter of said city a license authorizing such person to carry on the business of auctioneer, shall be guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than twenty-five nor more than one hundred dollars for each offense.

§ 26. Auction sales in the city of New York. No auction sale other than a sale held pursuant to the order of a court of record shall be held in the city of New York except after notice, specifying the time and place of such sale and the name of the auctioneer by whom the same is to be conducted and case he

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*shall be sufficient compliance with the provisions of this section; cases precede separately and individually the name of such person or the title of the firm under which he transacts business, a general description of the goods to be sold, and the address of the place where the sale is to be held, which shall be published for at least two days previous to such sale in at least two daily papers printed in the county in which such sale is to take place and to be designated by the mayor of such city: provided that in case two daily newspapers are not printed in the county in which an auction sale is to be held the notice of such sale shall be printed previous to such sale in two successive issues of two newspapers printed in such county, to be designated by the mayor of such city. In the counties of New York and Kings, respectively, the mayor may designate five daily newspapers in each of said counties, one of which may be a newspaper printed in the German language, another a newspaper printed in the Italian language and another a newspaper printed in Hebrew characters, in which notices of auction sales may be published and a publication of any such notice in any two of such newspapers printed in any county, in which such sale is to be held, for at least two days previous to such sale, shall be sufficient compliance with the provisions of this section; provided, that one of the two newspapers in which any such notice shall be published shall be a newspaper printed in the English language. The failure of an auctioneer to publish the notice of any auction sale conducted by him, in the manner and form required by this section, shall be sufficient cause for the revoking of his license as auctioneer. The expression "goods" as used in this section signifies any goods, wares, works of art, commodity, compound or thing, chattels, merchandise or personal property which may be lawfully kept or offered for sale but shall not include stocks, bonds, notes, or other securities, perishable goods or produce, or goods damaged at sea or by fire and sold or to be sold for the benefit of the owners, insurers or for the account of whom it may concern. Nothing herein shall apply to the sale of real property at auction.*

§ 2. This act shall take effect immediately.

(No. 17.)

AN ACT to amend the Greater New York charter, in relation to the better prevention of fires.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Section seven hundred and twenty-seven of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

## BUREAUS.

§ 727. The fire commissioner shall have power to organize the fire department into such bureaus as may be convenient and necessary for the performance of the duties imposed upon him. [One bureau shall be charged with the duty of preventing and extinguishing fires and of protecting property from water used at fires, the principal officer of which shall be called the "chief of department." Another bureau shall be charged with the execution of all laws relating to the storage, sale and use of combustible materials, the principal officer of which shall be called "inspector of combustibles." The salary of said inspector of combustibles shall be fixed by the board of estimate and apportionment. Another bureau shall be charged with the investigation of the origin and cause of fires, the principal officers of which shall be called "fire marshals." A branch of said bureau shall be located in the borough of Brooklyn.] *There shall be in the department a fire bureau, which under the direction of the commissioner shall have charge of the extinguishment of fires and the necessary and incidental protection of property in connection therewith. The commissioner shall appoint a fire chief in each borough from among the battalion chiefs who, subject to the direction of the commissioner, shall have full charge of the fire bureau in the borough to which he is assigned. There shall also be established a bureau of fire prevention, which under the direction of the commissioner shall perform the duties and exercise the powers devolved upon the commissioner by sections seven hundred and seventy-four and seven hundred and seventy-five.*



*seventy-five of this act. The official in charge of the bureau of fire prevention shall be known as the chief of fire prevention. He shall be appointed by the commissioner from among the battalion chiefs and subject to his direction. The commissioner shall also appoint such other officials and subordinates in each borough as may be necessary.*

§ 2. Section seven hundred and twenty-eight of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

SELECTION OF SUBORDINATES.

§ 728. The fire commissioner shall have power to select heads of bureaus and assistants and as many officers and firemen as may be necessary, and they shall at all times be under the control of the fire commissioner, and shall perform such duties as may be assigned to them by him, under such names or titles as he may confer.[]; provided, however, that assignments to duty and promotions in the uniformed force shall be made by the fire commissioner upon the recommendation of the chief of department, and in case any recommendation so made by the chief shall be rejected, he shall, within three days, submit another name or names, and continue so to do until the assignment or promotion is made.】 Promotions of officers and members of the force shall be made by the fire commissioner as provided in section one hundred and twenty-four of this act on the basis of seniority, meritorious service in the department and superior capacity as shown by competitive examination. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The fire commissioner shall transmit to the municipal civil service commission in advance of such examination the complete record of each candidate for promotion.

§ 3. The heading of title three of chapter fifteen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

### TITLE III.

#### PREVENTION OF FIRES—EXPLOSIVES AND COMBUSTIBLE MATERIALS.

Section 760. Shavings; how to be stowed away.

761. Hoistways, iron shutters, etc., to be closed.

762. Lights, precautions against fire and use of aisles in places of amusement.

763. Gunpowder and other explosives; sales thereof regulated.

764. Fireworks and explosive compounds; manufacture and sale thereof.

765. Petroleum and coal oils, et cetera; sale thereof.

766. Idem; continued.

767. Criminal liability of death results from violation of foregoing rules.

768. Fires and lights on vessels transporting petroleum.

769. Storage of certain chemicals regulated.

770. Idem; of certain vegetable products.

771. Right to enter buildings, et cetera, for purposes of examination.

772. Information to be furnished by holders of permits.

773. Fines and penalties.

774. *Duties of fire commissioner.*

775. *Powers of the commissioner.*

776. *Fire hazards are nuisances; procedure to abate same.*

777. *Court proceedings.*

778. *Application for order to remove violations and to vacate buildings.*

778a. *Transmitting notice to owner.*

778b. *Investigation of fires.*

778c. *Municipal explosives commission.*

§ 4. The Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended by adding thereto eight new sections, numbered respectively 774, 775, 776, 777, 778, 778a, 778b, and 778c thereof, and to read respectively as follows:

## DUTIES OF FIRE COMMISSIONER.

§ 774. *The Commissioner shall enforce all laws and ordinances in respect of*

1. *The prevention of fires;*
2. *The storage, sale or use of combustibles, chemicals and explosives;*
3. *The installation and maintenance of automatic or other fire-alarm systems and fire-extinguishing equipment;*
4. *The means and adequacy of exit, in case of fire, from all buildings, structures, enclosures, vessels, places and premises in which numbers of persons work, live, or congregate from time to time for any purpose;*
5. *The investigation of the cause, circumstances and origin of fires and the suppression of arson.*

## POWERS OF THE COMMISSIONER.

§ 775. *The Commissioner is empowered to*

1. *Cause any building, structure, enclosure, vessel, place or premises, or any part thereof, or thing thereof or attached hereto, to be examined and inspected by any officer or employee of the department designated for such purpose;*
2. *Order, in writing, the remedying of any condition found to exist in, on or about any building, structure, enclosure, vessel, place or premises, in violation of any law or ordinance in respect to fires or to the prevention of fires;*
3. *Require, in writing, the installation in any building, structure or enclosure, of automatic or other fire-alarm system or fire-extinguishing equipment and the maintenance and repair thereof, or the construction, as prescribed by any law or ordinance, of adequate and safe means of exit;*
4. *Require any building or structure which, in the opinion of the commissioner, is inadequately protected against fire perils to be vacated, or to be condemned and removed;*
5. *Cause any order of the commissioner or department which is not complied with within the time fixed in the order for such compliance, to be enforced and to take proceedings for the enforcement thereof.*

*The commissioner or any authorized officer or employee of the department may enter, at any reasonable hour, any building, structure, enclosure, vessel, place or premises, or any part thereof, to make inspections or in furtherance of the purpose of any provision of this chapter.*

*Orders of the department or of the fire commissioner shall be addressed to the owner or owners, lessees or occupants of the building, structure, enclosure, vessel, place or premises affected thereby, but it shall not be necessary to designate such owner or owners, lessees or occupants by name in any such order, but the premises shall be designated in the address, so that the same may be readily identified. Service of any such order may be made by delivery of a copy thereof to the owner or any one of several owners, to a lessee or any one of several lessees, or to any person of suitable age and discretion in charge or apparently in charge of the premises, or if no person be found in charge of the premises then by affixing a copy of such order prominently upon the premises.*

**FIRE HAZARDS ARE NUISANCES; PROCEDURE TO ABATE SAME.**

§ 776. *Any building, structure, enclosure or premises which is perilous to life or to property in case of fire therein, thereon or adjacent thereto, by reason of the nature or condition of its contents, or its use, or the overcrowding at any time of persons therein, or defects in its construction, or deficiencies in such fire alarm or fire extinguishing equipment as may be required for, on, or in said building, structure, enclosure or premises, by law, or by ordinance, or order of the fire commissioner, is a nuisance within the meaning of this act, the penal law and the code of ordinances. The fire commissioner is empowered and directed to cause any such nuisance to be abated.*

*If the person or persons served with an order under the last preceding section shall immediately agree in writing to comply with such order, within such time as the fire commissioner deems reasonable, the commissioner may fix such time as he deems reasonable within which such owner or owners, lessee or lessees may comply with such order; and such owner or owners, lessee or lessees shall immediately employ sufficient labor and assets to comply with such order as expeditiously as it can be done but upon*

*the refusal or neglect to comply with any of the requirements of an order so served, a further notice shall be served upon the person or persons heretofore named, and in the manner prescribed in the next preceding section, notifying him or them that a survey of the premises named in the said order and notice will be made at a time and place therein named, not less than twenty-four hours nor more than three days from the time of the service of said notice, by three competent persons, two of whom shall be named in said notice. One of the surveyors shall be the fire commissioner or a deputy, a member of the uniformed force or an inspector, designated in writing by said commissioner; another shall be an architect, of at least ten years' practice, to be appointed by the mayor. The third surveyor shall be a practical builder or architect to be appointed by the person or persons thus notified; but if such person neglect or refuse to appoint such surveyor, the other two surveyors may make such survey, and in case of a disagreement of the latter, they may appoint a third person to take part in such survey, who shall also be a practical builder or architect of at least ten years' practice. In case such surveyors or a majority of them shall report that said premises violate or do not comply with any law or ordinance or any lawful order of the commissioner or the department in respect to fires or the prevention of fires, the installation, maintenance or repair of automatic or other fire alarm system or fire extinguishing equipment, or adequate and safe means of exit, the report of such surveyors shall be placed before the supreme court, at a special term thereof held in the county in which said premises are situated or in an adjoining county at a time and place specified in said notice, and a trial upon the allegations and statements contained in said report, be the report of said surveyors more or less than is contained in the said notice of survey, shall be had before said court to determine what measure shall be taken to make such building or premises comply with the provisions of law or the ordinances or the lawful orders of the commissioner or the department applicable thereto. The report of said survey, reduced to writing, shall constitute the issue to be placed before the court for trial. A copy of said report of survey shall be posted on the building by one of the persons holding the*

survey, immediately after the conclusion of the survey. An architect appointed by the mayor and the surveyor appointed by the party notified as hereinbefore provided who may act on any survey, shall be entitled to receive the sum of twenty-five dollars, to be paid by the comptroller upon the voucher of the fire commissioner, but such architect or surveyor shall not receive an aggregate compensation of over seven hundred and fifty dollars for services performed during any one calendar year. A cause of action is hereby created for the benefit of the city of New York against the owner or owners of said building, structure, enclosure, vessel, place or premises and of the lot or parcel of land on which the same is situated for the amount so paid with interest, which shall be prosecuted in the name of the city of New York by the corporation counsel. The amount so collected shall be paid over to the comptroller in reimbursement of the amounts so paid by him as aforesaid.

## COURT PROCEEDINGS.

§ 777. Whenever the report of any such survey had as aforesaid shall state that the building, structure, enclosure, vessel, place or premises thus surveyed is unsafe or dangerous, and does not comply with provisions of law or ordinances applicable thereto, or with lawful orders of the commissioner or of the department, the commissioner at the time fixed in such notice shall place said notice and report before the justice holding a special term of court, who shall proceed immediately to the trial of the issue. The issue shall be tried without adjournment except such as may be necessary from day to day. The trial of such issue shall have precedence over every other business. Any such suit or proceeding commenced before a justice may be continued before another justice. The decision of the justice upon such a trial shall be a judgment of the supreme court, which shall be conclusive and final, and not subject to appeal. Upon the rendition of a decision of the court, if it shall find the said building, structure, enclosure, vessel, place or premises to be unsafe or dangerous or that it does not comply with provisions of law or ordinances applicable thereto, or with a lawful order of the commissioner or the department, the justice trying said cause shall immediately issue a precept out of said court,

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reciting such decision, directed to the commissioner, and commanding him forthwith to repair, alter, secure or take down or remove the building or structure or make the same comply with the provisions of law or ordinances of the lawful order of the commissioner or the department applicable thereto, in accordance with such decision. The commissioner immediately thereupon shall proceed to execute such precept as therein directed, and may employ such labor and assistance and furnish such materials as may be necessary for that purpose, and after having done so the commissioner shall make return of the precept, with an indorsement of the action thereunder and of the cost and expenses thereby incurred, to the justice then holding the special term of the court before which said proceeding was tried, and thereupon the justice shall tax and adjust the amount indorsed upon said precept, and shall adjust and allow the disbursements of said proceedings, together with the preliminary expenses of searches and surveys, which costs, expenses and disbursements shall be inserted in the judgment in the proceeding, and the court shall render judgment for such amount, and for the sale of the premises named in the said notice, together with all the right, title and interest that the person or persons, or either of them, to whom the notice of survey was addressed, had at the time of the filing of a notice of the pendency of the said proceeding, or at the time of the entry of judgment therein to satisfy the same. Such judgment shall be binding upon, and any conveyance made pursuant to any such judgment shall be effectual to convey the title and interest in said premises of all persons to whom the notice of survey was addressed either by name or by designating them as provided in section seven hundred and seventy-six, and upon all persons having or claiming title to the premises affected thereby through or under a person to whom such notice of survey was addressed as aforesaid by title accruing after the filing of such notice of pendency, or under any instrument recorded subsequent to the filing of such notice. Such judgment shall be enforced in the same manner and with like effect as sales under judgment for the foreclosure of mortgages of real property. In and about all preliminary proceedings and the carrying into effect of any order of the court or any precept

issued by the court, the commissioner may make requisition upon the comptroller of the city of New York for such amount or amounts of money as shall be necessary to meet the expenses thereof; and upon the same being approved by any justice of the court from which the said order or precept was issued the comptroller shall pay the same, and for that purpose shall borrow and raise, upon revenue bonds, the several amounts that may from time to time be required, which shall be reimbursed by the payment of the amount of interest at six per centum per annum out of the judgment or judgments obtained as aforesaid, if the same shall be collected. In case the issue shall not be tried at the time specified in said notice, or to which the trial may be adjourned, the same may be brought to trial at any time thereafter by the commissioner, without a new survey, upon not less than three days' notice of trial to the person or persons upon whom the original notice was served, or to his or their attorney; such notice of trial may be served in the same manner as the notice of survey. The notice of pendency of a proceeding under this section shall consist of a copy of the notice of survey, and shall be filed in the office of the county clerk of the county where the property affected by such proceeding is located. Such notice shall be indexed by the county clerk against the premises mentioned therein in the same manner as notices of mechanics' liens are indexed. Immediately upon the issuing of a precept, the owner or owners of the building, structure, enclosure, vessel, place or premises, or any party interested therein, on application to the commissioner, upon the payment of all costs and expenses incurred up to that time, shall be allowed to fulfill the requirements of such precept at his or their own proper cost and expense, provided the same shall be done immediately and in accordance with the requirements of said precept. The commissioner shall have authority to modify in writing the requirements of any precept, upon application to him therefor, in writing, by the owner or owners, when he shall be satisfied that such change shall secure equally well the safety of the said building, structure, enclosure, vessel, place or premises and compliance with the law, and ordinances



*applicable thereto, and with the lawful orders of the commissioner and the department.*

**APPLICATION FOR ORDER TO REMOVE VIOLATIONS AND TO VACATE BUILDINGS.**

§ 778. *In case an order issued by the commissioner or the department is not complied with, or the commissioner certifies in writing that an emergency exists requiring such action, he may order any building or structure or part thereof to be vacated. Such order shall be addressed and served in the same manner as is prescribed in section seven hundred and seventy-five for the service of orders. Whenever any order to vacate served as aforesaid shall not have been complied with, within the time designated therein, the commissioner, in addition to or in lieu of the remedy last above provided, or of any other remedy or power, may apply to the supreme court, at a special term thereof, without notice, for an order directing the said commissioner to vacate such building or premises, or so much thereof as said commissioner may deem necessary, and prohibiting and adjoining all persons from using or occupying the same for any purpose until such measures are taken as may be required by such order. The expenses and disbursements incurred in carrying out any such order or orders shall be and become a lien upon the building or premises named in the said notice, from the time of filing in the office of the clerk of the county where the property affected by such action, suit or proceeding is located a copy of the said notice, with a notice of the pendency of the action or proceeding for such order or in which such order is obtained. The supreme court, or a justice thereof, to whom application shall be made, is hereby authorized and directed to grant any of the orders above named, and to take such proceedings as shall be necessary to make the same effectual; and any such justice to whom application shall be made is hereby authorized and directed to enforce such lien in the same manner and with the same effect as if the amount thereof were a mechanics' lien duly claimed under a notice filed as provided by law.*

## TRANSMITTING NOTICE TO OWNER.

§ 778-a. *In case any order or notice mentioned in or given pursuant to any of the five last preceding sections shall be served upon or given to any lessee or person in possession or charge of the building, structure, enclosure, vessel, place or premises therein described it shall be the duty of such person to give immediate notice to the owner or agent of said building, structure, enclosure, vessel, place or premises named in the notice, if the same shall be known to such person personally, if such owner or agent shall be within the limits of the city of New York, and his residence known to such person; and if such owner or agent be not within said city, then by depositing a copy of such order or notice in any postoffice in the city of New York, properly enclosed and addressed to such owner or agent, at his then place of residence, if known, and with the postage prepaid. In case any lessee or person in possession or charge as aforesaid shall neglect to give such notice as herein provided, he shall be personally liable to the owner or owners of said building or premises for all damages he or they shall sustain by reason of such neglect.*

## INVESTIGATION OF FIRES.

§ 778-b. *The commissioner, through the chief of fire prevention or other officer of the bureau of fire prevention lawfully empowered to administer oaths and take testimony, shall investigate the origin of all fires, and particularly of all cases of supposed arson, incendiarism or fires due to criminal carelessness, which may be brought to the notice of the department or any officer thereof. The officer conducting such an investigation shall have power to summons under subpoena and take the testimony, in writing and under oath, of all persons supposed to be cognizant of any fact or to have means of knowledge in respect of the origin and circumstances of any supposed arson, incendiarism or fire due to criminal carelessness. All such testimony, duly verified, with the report of the investigating officer, setting forth his opinion and conclusions in respect of the case, shall be transmitted to and filed in the department. A copy of such testimony and report may be furnished, in the discretion of the commissioner, to the New York board of fire underwriters, to the owners of property, or other*

persons interested, provided, that in all cases of supposed arson, incendiarism or fires due to criminal carelessness, the commissioner, or an officer of the department authorized by him, shall promptly seek the co-operation of the police department and the district attorney of the county in which the supposed crime shall have occurred, and in all such cases the commissioner shall cause the police commissioner and the district attorney to be furnished with copies of the testimony taken and reports made by officers of the department in respect of such supposed arson, incendiarism or fires due to criminal carelessness. All evidence, with the addresses of probable witnesses, any such case shall be reported by the department to the appropriate district attorney without delay.

**MUNICIPAL EXPLOSIVES COMMISSION.**

§ 778-c. *The municipal explosives commission, as constituted at the date when this act shall take effect, is continued, and its members shall hold office during the pleasure of the mayor. All regulations of such commission existing at the date when this act shall take effect, except such as relate exclusively to its organization, or to the duties and discipline of its officers and employees, shall constitute a chapter of the code of ordinances of the city, and shall be subject to amendment or repeal by the board of aldermen.*

§ 5. All acts or parts of acts in so far as inconsistent with the provisions of this act are hereby repealed.

§ 6. This act shall take effect immediately.

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(No. 18.)

AN ACT to amend the General Business Law, in relation to auctioneers and sales at auction in the city of New York.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Article three of chapter twenty-five of the laws of nineteen hundred and nine, entitled "An act relating to general business, constituting chapter twenty of the consolidated laws," is hereby amended by adding thereto two new sections, to be sections twenty-four-a and twenty-four-b thereof, respectively, to read as follows:

§ 24a. *Auctioneers in the city of New York.* The officer of the city of New York authorized by the charter thereof to issue auctioneers' licenses is hereby empowered and directed to grant licenses to any person engaged in and carrying on the business and occupation of auctioneer, or desiring to be so engaged, on payment of the sum of one hundred dollars per annum, on such person filing a bond, approved by such officer with two good sureties or of any surety company authorized to do business in the State of New York in the penal sum of two thousand dollars. There shall be issued by such licensing officer, without cost, to each person to whom an auctioneer's license is granted a metallic badge, in such form as may be prescribed by such officer, which shall be numbered on the face thereof and shall contain the words "Licensed auctioneer of the city of New York," with the year of issue. In the event of the death of an auctioneer to whom a license has been granted during the year for which he has obtained said license, a proportionate share of said license fee of one hundred dollars shall be returned to his estate for the unexpired term of the year for which said license was obtained. On complaint of any person having been defrauded by any auctioneer, or by the clerk, agent or assignee of such auctioneer, doing business in said city, the officer of the city of New York authorized by the charter thereof to issue auctioneers' licenses is hereby empowered and directed to take testimony under oath relating to such complaint, and, if the charge shall, in his opinion, be sustained, he shall revoke the license granted to such auctioneer and direct his bond to be forfeited. No person shall hereafter carry on the business of auctioneer in the city of New York without having first obtained a license authorizing such person to carry on the business of auctioneer. Whenever the officer of the city of New York authorized by the charter thereof to issue auctioneers' licenses, shall refuse to issue or shall revoke the license of an auctioneer said determination may be reviewed by certiorari. Any person who shall offer for sale, or sell goods of any description, wares, merchandise, real or personal property at vendue or auction without having first obtained a license from the officer of the city of New York authorized by the charter thereof to issue auctioneers' licenses to such person to carry on the business of auctioneer, shall be guilty of a misdemeanor.

§ 24b. *Auction sales in the city of New York. No auction sale other than a sale held pursuant to the order of a court of record shall be held in the city of New York except after notice, specifying the time and place of such sale and the name of the auctioneer by whom the same is to be conducted, and in case he shall be connected with any person or firm, his name shall in all cases precede separately and individually the name of such person or the title of the firm under which he transacts business, a general description of the goods to be sold, and the address of the place where the sale is to be held, which shall be published for at least two days previous to such sale in at least two daily newspapers printed in the county in which such sale is to take place and to be designated by the mayor of such city; provided that in case two daily newspapers are not printed in the county in which an auction sale is to be held the notice of such sale shall be printed previous to such sale in two successive issues of two newspapers printed in such county, to be designated by the mayor of such city. In the counties of New York and Kings, respectively, the mayor may designate five daily newspapers in each of said counties, one of which may be a newspaper printed in the German language, another a newspaper printed in the Italian language and another a newspaper printed in Hebrew characters, in which notices of auction sales may be published and a publication of any such notice in any two of such newspapers printed in any county, in which such sale is to be held, for at least two days previous to such sale, shall be sufficient compliance with the provisions of this section; provided, that one of the two newspapers in which any such notice shall be published shall be a newspaper printed in the English language. The failure of an auctioneer to publish the notice of any auction sale conducted by him, in the manner and form required by this section, shall be sufficient cause for the revoking of his license as auctioneer. The expression "goods" as used in this section signifies any goods, wares, works of art, commodity, compound or thing, chattels, merchandise or personal property which may be lawfully kept or offered for sale. Nothing in this section shall apply to the sale at auction of real property or stocks, bonds, notes or other securities, perishable goods or pro-*

duce, or goods damaged at sea or by fire and sold or to be sold for the benefit of the owners, insurers or for the account of whom it may concern.

§ 2. This act shall take effect immediately.

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(No. 19.)

AN ACT to amend the labor law, by providing for the licensing and regulation of immigrant lodging places.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Article ten-a of chapter thirty-six of the laws of nineteen hundred and nine, entitled "An act relating to labor, constituting chapter thirty-one of the consolidated laws," is hereby amended by adding thereto a new section, to be known as section one hundred and fifty-six-a, which shall read as follows:

§ 156-a. *The licensing and regulation of immigrant lodging places.*

1. *No person shall hereafter, directly or indirectly, own, conduct or keep an immigrant lodging place without having first obtained from the commissioner of labor a license therefor. Before receiving such license the applicant therefor shall file with the commissioner of labor, in such form as he may prescribe, a statement verified by such applicant, or if said applicant is a corporation, by one of its officers, designating the location of the immigrant lodging place for which a license shall be requested, and specifying the number of boarders or lodgers received by said applicant at any one time during the year preceding such application at the place for which a license is sought, or if no business shall have previously been conducted at said place the maximum number of boarders or lodgers which it will accommodate. With such application there shall be presented to the commissioner of labor proof of the good moral character of the applicant, and in case such applicant is a corporation, of its officers, and in addition thereto a bond to the people of the state of New York, with two or more sureties or of a surety company approved by the commissioner of*

labor, conditioned that the obligor shall obey all laws, rules and regulations applicable to such immigrant lodging place prescribed by any lawful authority, and that such obligor shall discharge all obligations and pay all damages, loss and injuries which shall accrue to any person or persons dealing with such licensee, by reason of any contract or other obligation of such licensee or resulting from any fraud or deceit, conversion of property, oppression, excessive charges, or other wrongful act of said licensee or of his servants or agents in connection with the business so licensed. Where the number of boarders or lodgers specified in said application shall not exceed ten persons the penalty of said bond shall be one hundred dollars, where it shall be more than ten and less than fifty persons it shall be two hundred and fifty dollars, and where the number shall be more than fifty it shall be five hundred dollars. Any person aggrieved may bring an action for the enforcement of such bond in any court of competent jurisdiction. On the approval of the application for said license and of the bond filed therewith the commissioner of labor shall issue a license authorizing the applicant to own, conduct and manage an immigrant lodging place at the place designated in the application and to be specified in the license certificate. For such license the applicant shall pay to the commissioner of labor a fee of five dollars where the number of boarders or lodgers stated in the application does not exceed ten, a fee of ten dollars where such number exceeds ten and does not exceed fifty, and a fee of twenty-five dollars where such number exceeds fifty. Such license shall not be transferable without the consent of the commissioner of labor, nor authorize the conduct of an immigrant lodging place on any other premises than those described in the application. Such license shall be renewable annually on the payment of a fee based on the maximum number of boarders and lodgers received by the licensee at the place licensed during the preceding year. The commissioner of labor shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted, the names of the sureties upon the bond filed and the amount of the license fee paid by the licensee.

2. Every licensee shall keep conspicuously posted in the public rooms and in each bedroom of the place licensed a statement printed in the English language and in the language understood by the majority of the patrons of said place, specifying the rate of charges by the day and week for lodging, for meals supplied, for the transportation of passengers and baggage, the services of guides, and other service rendered to such patrons. No sum shall be charged or received by or for the licensee in excess of such posted rates for any service rendered, and payment shall not be enforceable for any charge in excess of such rates. A copy of the rates so posted shall be filed by the licensee with the commissioner of labor, and no increased rate shall be charged or received until a revised schedule showing such increase shall have been filed with the commissioner of labor. Every such licensee shall likewise file with the commissioner of labor a list specifying the names and addresses of every person employed by such licensee as a runner, guide or other employee, and showing whether such person is employed at a salary or on commission.

3. A license granted hereunder shall be revocable by the commissioner of labor on notice to the licensee and for cause shown.

4. The term immigrant lodging place as used in this section includes any place, boarding house, lodging house, inn or hotel where principally immigrants or emigrants while in transit, or aliens are received, lodged, boarded or harbored, which shall not include any place maintained or conducted by a charitable, philanthropic or religious society, association or corporation.

5. Any person or any officer of a corporation owning, conducting or managing an immigrant lodging place without having obtained from the commissioner of labor a license therefor, or who shall carry on such business, after the revocation of a license to carry on such business, or who shall violate any of the provisions of this section, shall be guilty of a misdemeanor.

6. The license fees collected hereunder shall be paid to the comptroller and shall constitute a fund to be used in the joint discretion of the comptroller and commissioner of labor for the expenses necessary for carrying out the provisions of this section.

§ 2. This act shall take effect on September first, nineteen hundred and eleven.



(No. 20.)

AN ACT to amend the General City Law, in relation to additional protection to life and property from fire in cities of the first class.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Chapter twenty-six of the laws of nineteen hundred and nine, entitled "An act in relation to cities, constituting chapter twenty-one of the consolidated laws," is hereby amended by inserting therein a new article, to be article twelve, to read as follows:

#### ARTICLE 12.

##### FIRE PROTECTION IN CITIES OF THE FIRST CLASS.

Section 170. Duties of the fire commissioner or analogous authority to enforce laws and ordinances.

171. Powers of the fire commissioner or analogous authority respecting fire protection.

172. Orders of the fire commissioner or analogous authority; court proceedings.

173. Nuisances.

174. District fire inspectors.

175. Fire drills.

176. Uniformed fire inspectors required in certain business establishments.

§ 170. Duties of the fire commissioner or analogous authority to enforce laws and ordinances. In all cities of the first class it shall be the duty of the fire commissioner or analogous authority to enforce all laws and ordinances for the prevention of fires, securing adequate means of exit from all buildings, enclosures, vessels, places, and premises, in which numbers of persons work, live or congregate from time to time for any purpose, and relating to the construction, maintenance and regulation of fire-escapes, the storage, sale or use of combustibles and explosives, and the installation or maintenance of automatic or other auxiliary fire-alarm systems and fire extinguishing equipment.

§ 171. Powers of the fire commissioner or analogous authority respecting fire protection. The fire commissioner or analogous authority in all cities of the first class shall be empowered to:

(a) Cause any building, enclosure, vessel, place or premises, or any part thereof, to be examined and inspected at any reasonable hour, and as frequently as he may deem necessary, by any officer or employee of the fire department designated by him for such purpose;

(b) To require in writing the remedying of any condition found to exist in any building, enclosure, vessel, place, premises or any part thereof, in violation of any laws or ordinances in respect to the prevention of fires, the means and adequacy of exit from buildings, enclosures, vessels, places and premises, fire-escapes, combustibles and explosives;

(c) Require in writing the installation in any building, enclosure, vessel, place, premises or any part thereof, of automatic or other auxiliary fire-alarm system, or fire extinguishing equipment and the construction of adequate and properly secured fire-escapes thereon, and such means of egress therefrom as may be prescribed by any laws or ordinances;

(d) Cause any order issued by the fire commissioner or analogous authority which is not complied with within the time fixed in the order for such compliance to be enforced, and take proceedings for the enforcement thereof.

§ 172. Orders of the fire commissioner or analogous authority; court proceedings. (a) Orders of the fire commissioner or analogous authority shall be addressed to the owner or owners, lessees or occupants of the building, structure, enclosure, vessel, place or premises affected thereby, upon whom is enjoined by law the duty of complying with the provisions of any laws or ordinances. It shall not be necessary to designate such owner or owners, lessees, or occupants by name in any such order, but the premises shall be designated in the address, so that the same may be readily identified. Service of any such order may be made by delivery of a copy thereof to the owner or any one of several owners, to a lessee or to any one of several lessees, or to any person of suitable age and discretion in charge or apparently in charge of the premises, or if no person be found in charge of the premises, then by affixing a copy of such order prominently upon the premises. If the person or persons to whom any such order is directed shall immediately or within such time as the commissioner or analogous authority shall prescribe, agree in writing to

comply with such order, the commissioner or analogous authority shall fix such time as he deems reasonable within which such owner or owners, lessee or lessees shall so comply. Thereupon such owner or owners, lessee or lessees shall immediately employ sufficient labor and assistance to comply with such order as expeditiously as it can be done; but upon the refusal or neglect to comply with any of the requirements of an order so served, or to proceed with such compliance, a further notice shall be served upon the person or persons heretofore named, in the manner hereinabove provided, notifying him or them that a survey of the premises named in said order and notice will be made by three competent persons, two of whom shall be named in said notice, at a time and place therein named not less than twenty-four hours nor more than three days from the time of the service of said notice. One of the surveyors shall be the fire commissioner or a deputy, or a member of the uniformed force, or an inspector, designated in writing by the fire commissioner or analogous authority; another shall be an architect, who shall be selected by the fire commissioner or analogous authority from the New York Chapter of the American Institute of Architects, if the premises be in the borough of Manhattan, the Bronx or Richmond, or from the Brooklyn Chapter of the American Institute of Architects; if the premises be in the borough of Brooklyn or Queens, or from the Buffalo Chapter of the American Institute of Architects; if the premises be in the city of Buffalo, or from the Central New York Chapter of the American Institute of Architects; if the premises be in the city of Rochester; such architect shall be selected from a committee, to be appointed from each of said chapters of the American Institute of Architects and certified by such chapter to the fire commissioner or analogous authority. The third surveyor shall be a practical builder or architect, to be appointed by the person or persons thus notified; but if such person neglect or refuse to appoint such surveyor, the other two surveyors may make such survey; and in case of disagreement of the latter, they may appoint a third person to take part in such survey, who shall also be a practical builder or architect of at least ten years' practice. In case such surveyors or a majority of them shall report to the fire commissioner or

analogous authority that said premises violate or fail to comply with any law or ordinance in respect to fire or prevention of fires or any lawful order of the commissioner or analogous authority, the report of such surveyors shall be by the commissioner or analogous authority, represented by the corporation counsel, placed before the supreme court, at a special term thereof held in the county in which such premises are situated or in an adjoining county at a time and place specified in said notice, and a trial upon the allegations and statements contained in said report, be the report of said surveyors more or less than is contained in the said notice of survey, shall be had before said court to determine what measures shall be taken to make such building, enclosure, vessel, place or premises comply with the provisions of law or the ordinances applicable thereto, or with lawful orders of the fire commissioner or analogous authority. The report of said surveyors reduced to writing shall constitute the issue to be placed before the court for trial. A copy of the report of survey shall be posted on the building, enclosure, vessel, place or premises by one of the persons holding the survey, immediately after the conclusion of the survey. The architects and the builder who may act on any survey shall each be entitled to receive for their services the sum of twenty-five dollars, to be paid by the comptroller upon the voucher of the fire commissioner or analogous authority. A cause of action is hereby created for the benefit of the city against the owner or owners of said building or structure and of the lot or parcel of land upon which the same is situated, for the amount so paid with interest which shall be prosecuted in the name of the city by the corporation counsel. The amount so collected shall be paid over to the comptroller in reimbursement of the amount so paid by him as aforesaid.

(b) Whenever the report of any such survey had as aforesaid shall state that the building, structure, vessel, place or premises thus surveyed is unsafe or dangerous, and does not comply with provisions of law or ordinances applicable thereto, or with lawful orders of the commissioner or analogous authority, the commissioner or analogous authority represented by the corporation counsel, at the time fixed in such notice, shall place said notice and report before the supreme court at a special term

thereof, and the court shall proceed without delay to the trial of the issue. The issue shall be tried without adjournment, except such as may be necessary from day to day. The trial of such issue shall have precedence over every other business. The decision of the court upon such a trial shall be a judgment of the supreme court which shall be conclusive and final, and not subject to appeal. Upon the rendition of the decision of the court, if it shall find the said building, structure, vessel, place or premises to be unsafe or dangerous or that it does not comply with provisions of law or ordinances applicable thereto, or with the lawful order of the commissioner or analogous authority, the court shall immediately make an order reciting such decision, directed to the commissioner or analogous authority, and commanding him forthwith to repair, alter, secure or take down or remove the building or structure or make the same comply with the provisions of law or ordinances or the lawful order of the commissioner or analogous authority, in accordance with such decision. The commissioner or analogous authority immediately thereupon shall proceed to execute such order as therein directed, and may employ such labor and assistance and furnish such materials as may be necessary for that purpose, and after having done so the commissioner or analogous authority shall make return of the order, with an indorsement of the action thereunder and of the costs and expenses thereby incurred, to the said court, and thereupon the court shall tax and adjust the amount indorsed upon such order, and shall adjust and allow the disbursements of said proceedings, together with the preliminary expenses of searches and surveys, which costs, expenses and disbursements shall be inserted in the judgment of the proceedings, and the court shall render judgment for such amount, and for the sale of the premises named in the said notice, together with all the right, title and interest that the person or persons or either of them, to whom the notice of survey was addressed, had at the time of the filing of a notice of the pendency of said proceedings, or at the time of the entry of judgment therein to satisfy the same. Such judgment shall be binding upon, and any conveyance made pursuant to any such judgment shall be effectual to convey the title and interest in said premises of all persons to whom the

notice and survey was addressed either by name or by designating them as hereinbefore provided, and upon all persons having or claiming title to the premises affected thereby through or under a person to whom such notice of survey was addressed as aforesaid by title accruing, after the filing of such notice of pendency, or under any instrument recorded subsequent to the filing of such notice. Such judgment shall be enforced in the same manner and with like effect as sales under judgement for the foreclosure of mortgages of real property. In and about all preliminary proceedings and the carrying into effect of any order of the court, the commissioner or analogous authority may make requisition upon the comptroller of the city for such amount or amounts of money as shall be necessary to meet the expenses thereof; and upon the same being approved by any justice of the court from which the said order was issued, the comptroller shall pay the same, and for that purpose shall borrow and raise, upon revenue bonds, the several amounts that may be from time to time required, which shall be reimbursed by the payment of the amount and interest at six per centum per annum out of the judgment or judgments obtained as aforesaid, if the same shall be collected. In case the issue shall not be tried at the time specified in said notice, or to which the trial may be adjourned, the same may be brought to trial at any time thereafter by the commissioner or analogous authority without a new survey, upon not less than three days' notice of trial to the person or persons upon whom the original notice was served, or to his or their attorney; such notice of trial may be served in the same manner as the notice of survey. The notice of pendency of a proceeding under this section shall consist of a copy of the notice of survey, and shall be filed in the office of the county clerk of the county where the property affected by such proceeding is located. Such notice shall be indexed by the county clerk against the premises mentioned therein, in the same manner as notices of mechanics' liens are indexed. Immediately upon the issuing of an order by the court, the owner or owners of the building, structure, enclosure, vessel, place or premises, or any party interested therein on application to the commissioner or analogous authority, upon payment of all costs and expenses incurred up to that time

shall be allowed to fulfill the requirements of such order at his, or their own proper cost and expense, provided the same shall be done immediately and in accordance with the requirements of said order. The commissioner or analogous authority shall have authority to modify in writing the requirements of any order, upon application to him therefor, in writing, by the owner or owners, when he shall be satisfied that such change shall secure equally well the safety of the said building, structure, vessel, place or premises, and compliance with the law, and ordinances applicable thereto, and with the lawful orders of the commissioner or analogous authority.

(c) In case an order issued by the commissioner or analogous authority is not complied with, or the commissioner or analogous authority certifies in writing that an emergency exists requiring such action, he may order any building, enclosure, vessel, place or premises or part thereof to be vacated. Such order shall be addressed and served in the same manner as is hereinabove prescribed for the service of orders. Whenever any order to vacate, served as aforesaid, shall not have been complied with within the time designated therein, the commissioner or analogous authority, in addition to or in lieu of the remedy last above provided, or of any other remedy or power, may apply to the supreme court at a special term thereof, without notice, for an order directing the said commissioner or analogous authority to vacate such building, enclosure, vessel, place or premises, or so much thereof as the said commissioner or analogous authority may deem necessary and prohibiting and enjoining all persons from using or occupying the same for any purpose until such measures are taken as may be required by such order. The expenses and disbursements incurred in carrying out such order or orders shall be and become a lien upon the building, enclosure, vessel, place or premises named in said notice, from the time of the filing in the office of the clerk of the county wherein the property affected by such action, suit or proceeding is located, a copy of the said notice together with a notice of the pendency of the action or proceedings for such order, or in which such order is obtained. The supreme court, to which application shall be made, is hereby au-

thorized and directed to grant any of the orders above named, and to take such proceedings as shall be necessary to make the same effectual; and is hereby authorized and directed to enforce such lien in the same manner and with the same effect as if the amount thereof were a mechanic's lien duly claimed under a notice filed as provided by law.

(d) In case any order or notice mentioned in or given as hereinabove provided shall be served upon or given to any lessee or person in possession or charge of the building, structure, enclosure, vessel, place or premises therein described, if the same shall be known to such person personally, if such owner or agent shall be in the limits of the city and his residence known to such person; and if such owner or agent be not within said city then by depositing a copy of such order or notice in any postoffice in the city properly enclosed and addressed to such owner or agent at his then place of residence, if known, and with the postage thereon prepaid. In case any lessee or person in possession or charge as aforesaid shall neglect to give said notice as herein provided, he shall be personally liable to the owner or owners of said building or premises for all damage he or they shall sustain by reason of such neglect.

§ 173. Nuisances. Any building, enclosure, structure, vessel, place or premises which is perilous to life or property in case of fire therein, by reason of noncompliance with any laws or ordinance, or order of the fire commissioner or analogous authority in respect to the nature or condition of its contents, or its use, or the overcrowding at any time of persons therein, or defects in its construction, or deficiencies in such fire alarm, fire-escape or auxiliary fire extinguishing equipment, is a nuisance, within the meaning of this act, the penal law and any local code of ordinances.

§ 174. District fire inspectors. Every city of the first class shall be divided into as many districts as the fire commissioner or analogous authority may prescribe, but not in any case to exceed in number the fire-houses of said city, and in each district there shall be an inspector, whose duty it shall be to inspect all buildings within his district, report to the fire commissioner or analogous authority the existence of any dangerous conditions found therein



in respect to cause of fire or means of exit, and whose duty it shall be to organize and carry out the fire drills hereinafter provided for. Such inspectors shall be appointed by the fire commissioner or analogous authority and may be recruited from efficient men in the ranks of retired members of the uniformed force of the fire department. The salaries of such inspectors shall be fixed by the board of estimate and apportionment subject to the approval of the board of aldermen or by the common council or analogous authority. All such inspectors shall be thoroughly instructed in their duties by the fire commissioner. The fire commissioner or analogous authority shall detail members of the uniformed force to assist such inspectors in the performance of their duty whenever he shall deem it necessary.

§ 175. Fire drills. The fire commissioner or analogous authority shall cause such inspectors to organize and conduct fire drills at reasonable intervals, but at least once in every three months, in all buildings where more than twenty-five persons are employed at any one time on any one floor, and it shall be the duty of every employer of labor to permit the inspector of the fire district within which he is located to organize and conduct fire drills of the employees as hereinabove provided. In addition to the fire drills hereinabove required, it shall be the duty of every employer of labor employing more than twenty-five persons to organize and conduct fire drills of such employees at least once in every month. Refusal to permit the inspectors to organize and conduct the fire drills herein required, and failure on the part of the employers to organize and conduct the additional drills herein required shall be a misdemeanor and punishable as such.

§ 176. Uniformed fire inspectors required in certain business establishments. In all retail stores and establishments having more than forty thousand square feet of show rooms or sales rooms on any floor above the ground floor, it shall be the duty of the owner of the business therein carried on and in all buildings used either in whole or part for manufacturing purposes in which more than three hundred persons are employed above the ground floor, it shall be the duty of the owner thereof to employ and keep on duty during business hours a uniformed man whose exclusive

duty it shall be to make frequent and regular inspections of the building during working hours, to have charge of all fire apparatus and safety appliances and who shall be qualified and ready to act in emergencies to extinguish fire and quell panics. Failure to comply with this section shall be a misdemeanor and punishable as such.

§ 2. Article twelve and sections one hundred and seventy and one hundred and seventy-one of such chapter are hereby renumbered article thirteen and sections one hundred and eighty and one hundred and eighty-one thereof, respectively.

§ 3. All provisions of law irreconcilably in conflict herewith are hereby repealed, provided, however, that nothing herein contained shall modify, repeal or affect any of the provisions of the act in relation to tenement houses, constituting chapter sixty-one of the consolidated laws.

§ 4. This act shall take effect on September first, nineteen hundred and eleven.

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(No. 21.)

AN ACT authorizing and directing the board of supervisors of Erie county to pay to the local authorities of various towns of Erie county certain items or sums of money illegally charged against the taxable property, inhabitants and corporations of said towns, in the various annual assessment-rolls of said towns, to be disbursed by said local authorities to the persons entitled thereto, and authorizing the county of Erie to issue its bonds with which to make such payments.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Within sixty days after this act takes effect the board of supervisors of the county of Erie shall ascertain the amount not heretofore collected from the county by any town or towns of the uncollected annual county taxes of each town in such county, and the amount of the fees of the collector for returning the same to the treasurer of the county, and the

uncollected school taxes not so collected, of the various districts in such towns, which have been charged back against said several towns of Erie county by the said county and included in the annual tax rolls of such respective towns for the various years since eighteen hundred and eighty-nine. Upon such amount being ascertained, the board of supervisors of Erie county shall forthwith cause to be paid to the supervisors of such towns, respectively, the several sums which shall be ascertained to have been charged against such respective towns and included in the annual tax rolls and warrants of such respective towns during such period.

§ 2. The supervisors of the various towns of Erie county are hereby authorized and empowered to receive and collect from such county the aggregate amount of the various sums so charged back against the taxable property, inhabitants and corporations of their respective towns in the manner specified in section one of this act, and the fact that the taxes have been paid voluntarily which included a part of the sum so charged back against the taxable property, inhabitants, persons and corporations in said towns in the annual tax rolls, or the fact that more than six years had elapsed since any such taxes have been paid, shall not prevent the recovery of such sums by said supervisors, as hereinbefore provided.

§ 3. For the purpose of receiving and collecting the sums so charged back against the taxable property, inhabitants and corporations of the town of Tonawanda and the city of Tonawanda, in said county, the city of Tonawanda and the present town of Tonawanda shall continue to be deemed and treated as one town, and, for the same purpose, the town of West Seneca and the city of Lackawanna shall continue to be deemed and treated as one town.

§ 4. Before any supervisor shall collect or receive any of the moneys specified in sections one and two of this act, he shall execute and file in the town clerk's office in his town a bond in such form and amount and with such surety as the town board of his town may fix and determine, and endorsed upon said bond shall be the approval thereof, both as to form and sufficiency of

surety, of a majority of the members of the town board of said town, and none of said moneys shall be paid by the treasurer of the county of Erie to any such supervisor until said supervisor shall have filed in the office of said treasurer a certificate from the town clerk of his town, stating, in general terms, that the provisions of this section have been complied with.

§ 5. The moneys so received by the supervisor of any town of Erie county in pursuance of this act shall be held by him as a special fund, separate and apart from all other funds of his town, and shall be paid out by him to the persons entitled thereto only as hereinafter directed. Provided, however, that in the town of Tonawanda, within ten days after the receipt of said moneys by the supervisor of said town, he shall designate a time and place when the supervisor of said town, the town clerk of said town and the city treasurer of said city shall meet for the purpose of apportioning the moneys so received by said supervisor between the present town of Tonawanda and the city of Tonawanda. Said place of meeting may be either within the town of Tonawanda or the city of Tonawanda. At the time and place so designated by said supervisor, the said supervisor, town clerk and city treasurer, or a majority of them, shall meet and shall thereupon ascertain what portion of the money received by said supervisor represents items or charges against the taxable property, persons, and corporations in the city of Tonawanda, and what portion represents items or charges against the taxable property, persons and corporations in the present town of Tonawanda; and, after ascertaining such facts, they, or a majority of them, shall apportion such respective moneys so ascertained between the said city and the said town proportionately, and their determination shall be reduced to writing and executed in duplicate by the said supervisor, town clerk and city treasurer, or a majority of them, and one of said duplicates shall be filed in the office of the town clerk of said town and the other of said duplicates shall be filed in the office of the city clerk of said city; and the determination so made by said supervisor, town clerk and city treasurer shall be final and conclusive, and thereupon the said supervisor shall pay to

the city treasurer of the city of Tonawanda the amount so apportioned to said city. Provided, also, however, that in the town of West Seneca, within ten days after the receipt of said moneys by the supervisor of said town he shall designate a time and place when the supervisor of said town, the town clerk of said town and the city treasurer of the city of Lackawanna shall meet for the purpose of apportioning the moneys, so received by said supervisor, between the town of West Seneca and the city of Lackawanna. Said place of meeting may be either within the town of West Seneca or the city of Lackawanna. At the time and place so designated by said supervisor, the said supervisor, town clerk and city treasurer, or a majority of them, shall meet and shall thereupon ascertain what portion of the money received by said supervisor represents items or charges against the taxable property, persons and corporations in the city of Lackawanna, and what portion represents items or charges against the taxable property, persons and corporations in the town of West Seneca; and, after ascertaining such facts, they, or a majority of them, shall apportion such respective moneys so ascertained between the said city and the said town proportionately, and their determination shall be reduced to writing and executed in duplicate by the said supervisor, town clerk and city treasurer, or a majority of them, and one of said duplicates shall be filed in the office of the town clerk of said town and the other of said duplicates shall be filed in the office of the city clerk of said city; and the determination so made by said supervisor, town clerk and city treasurer shall be final and conclusive and thereupon the said supervisor shall pay to the city treasurer of the city of Lackawanna the amount so apportioned to said city. The money so paid by the supervisor of the town of Tonawanda to the treasurer of the city of Tonawanda, and the moneys so paid by the supervisor of the town of West Seneca to the city treasurer of the city of Lackawanna, shall be held by each of said treasurers as a special fund, separate and apart from all other funds of their respective cities, and shall be paid out by said city treasurers to the persons entitled thereto, only as hereinafter directed.

§ 6. Within sixty days after payment to any such supervisor or any such city treasurer of the moneys specified in section one

of this act, he shall cause to be published, in a newspaper printed in the city of Buffalo, New York, a notice directed To Whom It May Concern, requiring all persons or corporations who paid any tax which included any portion of any of the items specified in section one of this act to file with said supervisor or city treasurer, as the case may be, a claim therefor; said notice shall be published at least once. Within ninety days after the first publication of such notice any person or corporation who paid any portion of the items so charged back against the taxable property, inhabitants or corporations in said town or city, may present to the town board of said town or to the common council of said city a written claim duly verified, setting forth the name and post office address of the person or corporation making the claim, a particular description of the property on account of which said payment or payments were made, the particular tax-roll or rolls on account of which said payments were made, the assessed valuation of said property on said roll or rolls, the amount of the total tax assessed and paid on each such roll, and a reference to the page and line of said roll containing a description of said property, and the amount claimed to be included in such tax on account of the items so charged back as specified in section one of this act. After the expiration of said ninety days the said town board of said town or the common council of said city shall examine the claims so filed with it and proceed to audit and allow or disallow the same. In the event that not more than one claim is made for the same refund on account of the same property and roll, the board or council, if satisfied that the facts stated in said claim are true, may audit and allow said claim at the amount therein stated and claimed, or said board or council may require the claimant to produce before it such proof of such facts required to be stated in said claim as the board or council may require, and the attorney for said council or board, engaged under this act, may contest any such claim and adduce evidence to disprove the facts asserted by the claimant. In the event that the board or council requires said claimant to give proof of the facts set forth in his claim, or in the event that such claim is contested by said attorney, the said board or council shall give such claimant ten days' notice in writing by mail of the time and place when and where said board or council will convene, to

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hear and consider such proof. At the time and place so designated by said board or council, it shall meet and shall hear and consider the evidence of the respective parties. In the event that more than one claim is made for the same refund on account of the same property and roll, the board or council shall give at least ten days' notice by mail to each such claimant of the time and place when and where said board or council will convene, to hear and consider the respective claims of the claimants, and the evidence adduced by each, and at the time and place so fixed the board or council shall convene and shall hear and consider the claims made by each of such claimants, and shall hear and consider the evidence adduced by each such claimant. In all cases the board or council shall have the power to fix a time within which each claimant shall submit his proof and the said board or council may, in its discretion, adjourn said proceedings from time to time. In all cases the decision of the board or council shall be rendered and its determination reduced to writing and filed in the clerk's office of the town or city, as the case may be, within thirty days after the matter shall be finally submitted to them, and its decision when so rendered shall be final and conclusive upon all the respective claims. The said board or council shall have the power to issue subpoenas, compel the attendance of witnesses before it and may require the production of any tax roll or rolls before it, in the custody of the county treasurer, or in the custody of any town collector. When any claim shall have been audited and allowed, the board or council shall thereupon fix and adjust the reasonable value of the services of the town attorney or the city attorney employed under this act, and of the town expert or of the city expert employed under this act in connection with said claim. Such services shall include those rendered the board or council on the examination and audit of said claim, and the proper proportion of those services rendered in connection with ascertaining the total amount to be paid to the supervisor under sections one and two of this act. The sum fixed as the value of said services of said city attorney or said town attorney and of said expert shall be deducted from the amount at which said claim shall be audited, and shall be paid forthwith by the supervisor of the town or the treasurer of the city to the said

attorney and to the said expert, and the balance of said amount so audited shall be paid forthwith by the said city treasurer or the said supervisor to the said claimant. All of said payments shall be made out of the said special separate fund composed of said moneys so received under sections one and two of this act. Every decision and determination made by the city council or the town board under this act shall be final and conclusive, but the said council or the said board may upon its own motion, but not otherwise, reopen and reconsider any claim which it had theretofore disallowed, provided, however, that it shall not reopen or reconsider any such claim disallowed where the claimant made claim to a refund which shall have been already awarded, audited and allowed to another claimant. The words person or corporation, when used in this act, shall include the executors, administrators, successors or assigns of such person or corporation. From time to time the town board of the city council may make, and enter upon their minutes, orders extending the time within which claimants may file claims, as hereinbefore provided, except that no such order shall have the force or effect of extending the time of any person or corporation to file a claim for any refund which has heretofore been audited and ordered paid to any other claimant. If after the expiration of six years from the collection by the supervisor from the county of said moneys specified in sections one and two of this act there remains in the custody and possession of the supervisor or the city treasurer, as the case may be, any portion of said moneys not reimbursed to claimants, the same shall be repaid by said supervisor or said city treasurer to the treasurer of the county of Erie, upon demand; and after the expiration of said six years neither the council of either of said cities nor the supervisor of any of said towns shall audit or allow or consider any claim presented under this act.

§ 7. Within sixty days after this act takes effect the town board of each town of the county of Erie and the common council of the city of Lackawanna and the common council of the city of Tonawanda may each employ an attorney and counselor-at-law to appear, represent and act for it, and for its said town, and for its supervisor of said town, or for its said city or city treasurer of its said city, in all matters and things that arise or may arise under this act. Each of said boards may also employ a person to



act for it and on behalf of its town, city, supervisor, or city treasurer, as the case may be, as expert investigator and accountant, in all matters that arise or that might arise under this act. Each of said employments shall be in writing and shall be for a period of not exceeding six years. The compensation of said attorney and of said expert shall be fixed and paid as hereinbefore provided. If the attorney employed hereunder shall also be the general attorney or counsel for said town or city, his compensation as herein provided shall be in addition to that now or hereinafter fixed by law for his general services to said town or city.

§ 8. For the purpose of providing moneys with which to make such payments to the supervisors of the various towns of Erie county, the board of supervisors are hereby authorized and directed to issue the bonds of the county of Erie and cause the same to be sold in the manner now provided by law for the sale of other county bonds in an amount sufficient to provide funds to make the necessary payment or payments provided for in this act; such bonds shall bear interest at a rate not to exceed five per centum per annum, the rate of interest to be determined by the board of supervisors of Erie county, the interest to be payable semi-annually from the date of the issue of said bonds at the office of the treasurer of the county of Erie, or at such other place as the board of supervisors may direct; the principal of said bonds to be payable at the same place as follows: One-twentieth thereof one year from the date of issue of said bonds, and one-twentieth thereof each and every year thereafter until the whole amount thereof is fully paid.

§ 9. This act shall take effect immediately.

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(No. 22).

AN ACT to amend the general city law, in relation to licenses for theatrical and other entertainments and performances, in cities of the first class.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Chapter twenty-six of the laws of nineteen hundred and nine, entitled "An act in relation to cities, constituting chap-

ter twenty-one of the consolidated laws," is hereby amended by inserting therein a new section, to be section ten-a, to read as follows:

§ 10-a. *Regulations in relation to licenses for certain public exhibitions in cities of the first class.* If by law or ordinance a license by any officer, board or body is required to exhibit to the public in any building, garden or grounds, concert room or other place or room within a city of the first class, any interlude, tragedy, comedy, opera, ballet, play, farce, minstrelsy or dancing, or any other entertainment of the stage, or any equestrian, circus, or dramatic performance, or any performance of jugglers, or rope dancing, or acrobats, before a license is refused, the applicant shall be entitled to a hearing, at which he may present evidence in support of his application, and be represented by counsel. Whenever such officer, board or body shall refuse to grant a license, after hearing the applicant, he or it shall state in writing the reason why such application is refused, and shall sign and file the same, together with all the evidence taken on such application, and the papers relating thereto; and the records, including the report, stating why the license was refused, shall be open to the inspection of the person whose application is refused, or his attorney. The decision of the officer, board or body, and his or its action on an application, may be reviewed by certiorari proceedings, and if it shall be determined that the refusal to grant the license was unjustifiable, unreasonable or an abuse of discretion, an order shall be granted directing the issuance of a license on the payment of the sum required by law or ordinance to be paid therefor. In any proceeding before an officer, board or body for a license as herein provided, such officer, board or body shall have power to subpoena and require the attendance in this state of witnesses, and the production by them of books and papers pertinent to the investigation, and to examine them and such public records as such officer, board or body shall require in relation thereto; and for the purposes of the examinations hereby authorized, such officer, board or body shall possess all the powers conferred upon an officer, person, board or committee, by chapter nine, title one, article second of the code of civil procedure, and may invoke the power of any court of record in the state, to compel the attendance and testifying of witnesses and production by

*them of books and papers aforesaid; and such officer or any member of such board or body is hereby given power and authority to administer an oath or affirmation to any witness.*

§ 2. This act shall take effect immediately.

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(No. 23.)

AN ACT to amend the Tenement-House Law, generally.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Subdivisions one, four and twelve of section two of chapter ninety-nine of the laws of nineteen hundred and nine, entitled "An act in relation to tenement-houses, constituting chapter sixty-one of the consolidated laws," are hereby amended to read as follows:

1. A "tenement-house" is any house or building, or portion thereof, which is *either* rented, leased, let or hired out, to be occupied, or is occupied, *in whole or in part*, as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, [or by more than two families upon any floor, so living and cooking, but] *and* having a common right in the halls, stairways, *cellar, yard[s],* water-closets or privies, or [some] *any* of them.

4. A "shaft" includes exterior and interior shafts, whether for air, light, elevator, dumbwaiter, or any other purpose. [A "vent shaft" is one used solely to ventilate or light a water-closet compartment or bathroom.]

12. The "height" of a tenement-house is the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams, the measurements in all cases to be taken through the center of the facade of the house. Where a building is on a [corner] lot *that faces on two or more streets* and there is more than one grade or level, the measurements shall be taken through the center of the facade on the street [having the greatest grade] *at the lowest level.*

§ 2. Section three of said chapter is hereby amended to read as follows:

§ 3. Buildings converted or altered. A building not [erected for use as] a tenement-house, if hereafter converted or altered to such use, shall thereupon become subject to all the provisions of this chapter affecting tenement-houses hereafter erected. [A tenement-house not now completed, but the excavation for which shall have been commenced in good faith on or before the first day of June, nineteen hundred and one, after approval of the plans therefor by the department of buildings, and the first tier of beams of which shall have been set on or before the first day of August, nineteen hundred and one, shall be subject only to the provisions of this chapter affecting now existing tenement-houses; provided that the plans for said house were filed in said department on or before the tenth day of April, nineteen hundred and one, and were in accordance with the laws in force at the time of filing, and that the building is built in accordance with such laws.]

§ 3. Section fifteen of said chapter is hereby amended to read as follows:

§ 15. Fireproof tenement, when required. Every tenement-house hereafter erected [exceeding] *which exceeds* six stories or parts of stories in height [above the curb level], shall be a fireproof tenement-house, nor shall any tenement-house be altered so as to exceed such height without being made a fireproof tenement-house. A cellar the ceiling of which does not extend more than two feet above the curb level is not a story within the meaning of this section. [Where, however, a tenement-house hereafter erected is located on a street of which the grade is more than four feet in one hundred feet, a cellar or basement, the ceiling of which does not extend more than six inches above the highest point of the curb level, is not to be deemed a story within the meaning of this section, provided, however, that no part of such cellar or basement is occupied or arranged to be occupied for living purposes except by the janitor of such building and his family, and provided also that such cellar or basement is the lowest story of such building.]

§ 4. Paragraph five of subdivision three of section sixteen of said chapter is hereby amended to read as follows:

§ 5. If a party-wall balcony located in an outer court not more than fifteen feet in length measured from the outer end of such court to the [innermost] *outermost* point [thereof], of said

*balcony, and said court is not less than five feet in width from wall to wall at any point between such fire-escape and the outer end of said court [ , ] or if located in an outer court which is not less than ten feet in width from wall to wall at any point; and provided also in both the above cases that there are no doors or openings in the walls between the two buildings other than windows in fireproof air-shafts.*

§ 6. Sections eighteen, twenty-two, twenty-five, twenty-eight, thirty-three, thirty-six, thirty-seven, thirty-eight, fifty-one, fifty-nine, sixty-two, sixty-six, seventy, seventy-five, seventy-eight, ninety-three and ninety-seven of said act, respectively, are hereby amended to read as follows:

§ 18. Stairs and public halls. **[Every]** *In every* tenement house hereafter erected **[shall have at least one flight of stairs extending]** *all stair-halls shall extend from the entrance floor to the roof, and the stairs and public halls therein shall each be at least three feet wide in the clear.*

§ 22. Stair-halls. 1. The stair-halls in all nonfireproof as well as fireproof tenement-houses hereafter erected shall be constructed as in this section and the following section specified. In tenement-houses hereafter erected which either are occupied or are arranged to be occupied by more than two families on any floor, or which exceed four stories and cellar in height, the stair-halls shall be constructed of fireproof material throughout. *There shall be no wood or other inflammable material of any kind in such halls, except that hand-rails of hard wood and hard wood treads not less than two inches thick may be provided. All windows on stair-halls opening upon courts shall in addition to being fireproof be glazed with good quality wire-glass. The risers, strings and banisters shall be of metal or stone. The treads shall be of metal, slate or stone, or of hard wood not less than two inches thick. [Wooden hand] Hand rails to stairs shall be provided and, [will be permitted if] if wooden, shall be constructed of hard wood. The floors of all such stair-halls shall be constructed of iron or steel beams and fireproof filling, and no wooden flooring or sleepers shall be permitted. In tenement-houses hereafter erected which do not exceed four stories and cellar in height and which also are not occupied or arranged to be occupied by more than two families*

on any floor, the stair-halls shall either be constructed of iron beams and fireproof filling, or shall be filled in between the floor beams with at least five inches of cement deafening. In such houses the stairs shall be iron or stone, or may be of wood, provided the soffits are covered with metal lath and plastered with two coats of mortar, or with good quality plaster boards not less than one-half inch in thickness, made of plaster and strong fibre and all joints made true and well-pointed.

2. In every nonfireproof tenement-house hereafter erected which either is occupied or is arranged to be occupied by more than two families on any floor, or which exceeds four stories and cellar in height, all stair-halls shall be inclosed on all sides with brick walls, *except that one or more sides may be left open to the street, yard or court.* The doors opening from such stair halls shall be fireproof and self-closing[, and if provided with glass such glass shall be good quality wire-glass]. There shall be no transom or [movable] sash or *similar opening of any kind* from such stair-hall to any other part of the house. Each stair-hall shall be shut off from all nonfireproof portions of the public halls and from all other nonfireproof parts of the building, on each story, by self-closing fireproof doors[, and if glass is used in such doors it shall be of good quality wire-glass]. *In every tenement-house hereafter erected every public hall which exceeds forty feet in length and which is also used or intended to be used as a means of egress from more than three apartments shall be constructed fireproof throughout and all doors opening from such hall shall be fireproof and self-closing.* In tenement-houses hereafter erected which do not exceed four stories and cellar in height, and which also are not occupied or arranged to be occupied by more than two families on any floor, the stair halls shall be inclosed on all sides with brick walls or with partitions of angle iron and fireproof blocks not less than four inches thick; in tenement-houses hereafter erected which do not exceed three stories and cellar in height, and which also are not occupied or arranged to be occupied by more than two families on any floor, the stair halls may be inclosed with wooden stud partitions, provided such partitions are covered on both sides with metal lath, or with good quality plaster boards not less than one-half

inch in thickness, made of plaster and strong fibre and all joints made true and well-pointed, and provided that the space between the studs is filled in with brick to the height of the floor beams.

§ 25. Partitions. In all nonfireproof tenement-houses hereafter erected, [fore and aft] *apartment* stud partitions which rest directly over each other shall run through the wooden floor beams and rest upon the plate of the partition below, and shall have the studding filled in solid between the uprights to the depth of the floor beams with suitable incombustible materials. In all fireproof tenement-houses hereafter erected, all partitions shall rest directly upon the fireproof floor construction, and extend to the fireproof beam filling above. *Apartment partitions within the meaning of this section are partitions crossing the floor beams at any angle, and designed to separate apartment from apartment, or any part of an apartment from the public hall or other public part of the building.*

§ 28. Closet under first-story stairs. In nonfireproof tenement-houses hereafter erected no closet of any kind shall be constructed under any staircase leading from the [first] *entrance story*], exclusive of the cellar,] to the upper stories, but such space shall be left entirely open and kept clear and free from incumbrance.

§ 33. *Certain alterations and buildings moved from one lot to another.* [Stair halls, public halls and entrance halls.] If any tenement-house existing on April eleventh, nineteen hundred and one, shall be so altered as to increase the number of rooms therein by thirty-three and one-third per centum or more, or if such building is increased in height so that the said building is more than four stories or parts of stories above the curb level, and also the number of rooms is increased therein, the entire stair halls, entrance halls and other public halls of the whole building shall be made to conform to the requirements of sections eighteen to twenty-three, inclusive, of this chapter. *If any tenement-house erected prior to April tenth, nineteen hundred and one, be hereafter moved from one lot to another, it shall thereupon become subject to all the requirements of this chapter affecting tenement-houses hereafter erected.*

§ 36. Shafts. All shafts hereafter constructed in tenement-houses shall be constructed fireproof throughout, with fireproof

self-closing doors at all openings, at each story, except window openings in [vent] shafts; and, if they extend to the cellar, shall also be inclosed in the cellar with fireproof walls and fireproof self-closing doors at all openings. In no case shall any shaft be constructed of materials in which any inflammable material or substance enters into any of the component parts. But nothing in this section contained shall be so construed as to require such inclosures about elevators or dumbwaiters in the well-hole of stairs where the stairs themselves are inclosed in brick or stone walls, and are entirely constructed of fireproof materials as hereinbefore provided.

§ 37. Plastering behind wainscoting. When [wainscoting is hereafter placed in] *the surface of walls, partitions or ceilings of any tenement-house, or any building in process of alteration into a tenement-house, [the surface of the wall or partition behind such wainscoting] is to be covered, sheathed or wainscoted, wholly or in part, the wall, partition or ceiling behind such covering shall first be plastered; [down to the floor line,] and any intervening space between said plastering and said wainscot, sheathing or covering shall be filled in solid with incombustible material. In the case of walls and partitions, such plastering and filling shall extend down to the floor line.*

§ 38. Wooden buildings on same lot with a tenement-house. *Within the fire limits [No] no wooden building of any kind whatsoever shall hereafter be placed or built upon the same lot with a tenement-house [within the fire limits.], nor shall a tenement-house be placed or built upon the same lot with a wooden building. And, within the fire limits, no wooden tenement-house, and no wooden structure or other building on the same lot with a tenement-house, shall hereafter be enlarged, extended or raised; except that a wooden extension not exceeding in total area seventy square feet may be added to an existing wooden tenement-house, provided such extension is used solely for bath-rooms or water-closets. Nothing in this section shall be construed so as to prevent the erection of an extension to a wooden building, within the fire limits, if such extension is constructed with walls of brick, stone, iron or other hard, incombustible material, provided that the top of the roof beams of such extension shall not be above the level of the*



*second tier of beams, and further provided that such extension shall not be occupied or arranged to be occupied for living purposes.*

§ 51. Height. The height of no tenement-house hereafter erected shall by more than one-half exceed the width of the widest street upon which it stands. Such height shall be the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams; *provided that if the cornice exceeds one-tenth of such height, the measurements shall be taken to the top of the cornice instead of to the top of the roof beams; and provided that [where] if there are bulkheads, superstructures or penthouses, exceeding ten feet in height or exceeding in aggregate area ten per centum of the area of the roof, the measurements shall be taken to the top of [the] such bulkhead[;], superstructure or penthouse; but this shall not apply to elevator inclosures not exceeding [fifteen] twenty-three feet in height[.], and used solely for elevator purposes, nor to open pergolas or similar open ornamental treatment of roof-gardens or play-grounds.* The measurements in all cases shall be taken through the center of the facade of the house.

No tenement-house shall be increased in height so that the building shall exceed by more than one-half the width of the widest street on which it stands.

§ 59. Outer and inner courts. Nothing contained in the foregoing sections concerning outer and inner courts shall be construed as preventing windows at the angles of said courts, provided that the running length of the wall containing such windows does not exceed six feet. Except that in outer or inner courts of a less size than the minimum prescribed for tenement-houses sixty feet in height, the running length of the wall containing windows in the angles of said courts shall not exceed four feet. Nothing in this section contained shall be construed so as to permit the reduction of any inner court by cutting off the corners thereof when such court is less than eight feet in width, measured from the lot line to the opposite wall of the building. In construing said sections the height of the building is to be measured from the curb level to the top of the highest wall inclosing or forming such court. When a tenement-house hereafter erected exceeding three stories

in height has no basement and the cellar ceiling is not more than two feet above the curb level, the courts mentioned in the [seven] three preceding sections may start at the level of the second tier of beams. Where an inner court starts at the second tier of beams, *unless the bottom of the court is at that level and an intake is there provided as prescribed by section fifty-eight, subdivision three, of this chapter*, a portion of such court [having a least horizontal dimension equal to the minimum width of the court as prescribed by section fifty-eight, subdivisions one and two, of this chapter] shall be left unbuilt upon, and shall communicate directly with the intake required by section fifty-eight, subdivision three, of this chapter. *Where one side of such court is situated on the lot line, the unbuilt upon portions shall have a minimum width and length equal to the minimum width of the court; where such court is not situated upon the lot line, the unbuilt upon portion shall have one dimension equal to the minimum width of the court and the other dimension shall be not less than one-half that width.* Nothing in this section contained shall be construed so as to permit any room without a window opening on the street or yard or on a court in every part of the dimensions prescribed in the foregoing sections. Where a court starts at the level of the second tier of beams, in whole or in part, and the bottom of said court is a skylight over a store or hall, proper access to the top of said skylight shall be provided, and said skylight shall be so arranged as to be easily cleaned.

§ 62. Rooms, lighting and ventilation of. In every tenement-house hereafter erected every room, [except] *including* water-closet compartments and bathrooms, shall have at least one window opening directly upon the street or upon a yard or court of the dimensions specified in sections fifty-two to sixty of this chapter, and such window shall be so located as to properly light all portions of such rooms. In addition to the above requirement, in tenement-houses hereafter erected, no apartment of three rooms or less shall extend in depth from the street or yard, as the case may be, for a greater distance than eighteen feet without the intervention of an inner or outer court adjoining said room, constructed as required by this chapter. Wherever a room in a tenement-house hereafter erected opens upon an inner court less than ten feet

wide, measured from the lot line to the opposite wall of the building, such room shall be provided with a sash window, communicating with another room in the same apartment, such window to contain not less than ten square feet of glazed surface, and to be made so as to readily open. No tenement-house shall be so altered that any room or public hall or stairs shall have its light or ventilation diminished in any way not approved by the department charged with the enforcement of this article.

§ 66. Public halls. In every tenement-house hereafter erected, which is occupied or arranged to be occupied by more than two families on any floor or which exceeds four stories and cellar in height, every public hall shall have at least one window opening directly upon the street or upon a yard or court. [Either such] *Such* window shall be at the end of said hall, with the [plane of the window at right angles] *natural direction of the light parallel* to the axis of said hall [or]; *if the hall exceeds forty feet in length there shall be one additional window in each additional twenty feet of hall or fraction thereof. If the window is not thus located at the end of the hall,* there shall be at least one window opening directly upon the street or upon a yard or court in every twenty feet in length or fraction thereof of said hall; but *the foregoing* [this] provisions [for one window in every twenty feet of hallway] shall not apply to that portion of the entrance hall between the entrance and the first flight of stairs, provided that the entrance door contains not less than five square feet of glazed surface. In every public hall in such tenement-house recesses or returns the length of which does not exceed twice their width will be permitted without an additional window. But wherever the length of such recess or return exceeds twice its width the above provisions in reference to one window in every twenty feet of hallway shall be applied. Any part of a hall which is shut off from any other part of said hall by a door or doors shall be deemed a separate hall within the meaning of this section. [In every tenement-house hereafter erected where the public hall is not provided with] *In tenement-houses hereafter erected which are not occupied or arranged to be occupied by more than two families on any floor and which also do not exceed four stories and cellar in height, in lieu of a window opening directly to the*

outer air as above provided, there shall be a stair-well not less than twelve inches wide extending from the entrance floor to the roof [ and ]. *In such last-named tenement-houses the entrance door shall contain not less than five square feet of glazed surface and all doors leading from [such] the public halls shall be provided with translucent glass panels of an area of not less than five square feet for each door, and also with fixed transoms of translucent glass over each door.*

§ 70. Percentage of lot occupied. No tenement-house shall hereafter be enlarged, or its lot be diminished, so that a greater percentage of the lot shall be occupied by buildings or structures than is provided in section fifty of this chapter [ the measurements may be taken at the level of the second tier of beams ]; provided that the space occupied by fire-escapes of the size hereinbefore prescribed, and by chimneys or flues located in yards and attached to the houses *and* which do not exceed five square feet in area and do not obstruct light or ventilation, shall not be deemed a part of the lot occupied.

§ 75. *New light [and vent] shafts in existing buildings.* Any shaft used or intended to be used to light or ventilate rooms used or intended to be used for living purposes, and which may be hereafter placed in a tenement-house, erected prior to April tenth, nineteen hundred and one, shall not be less in area than twenty-five square feet, nor less than four feet in width in any part, and such shaft shall under no circumstances be roofed or covered over at the top with a roof or skylight; every such shaft shall be provided at the bottom with a horizontal intake or duct, of a size not less than four square feet, and communicating directly with the street or yard, and such duct shall be so arranged as to be easily cleaned out.

§ 78. Chimneys and fireplaces. In every tenement-house there shall be adequate *and sufficient flues or chimneys* running through every floor with an open fireplace or grate, or place for a stove, properly connected with one of said *flues or chimneys* for every apartment. *In tenement-houses hereafter erected, such flues shall be constructed independently of each other, provided, however, that where gas stoves are to be used exclusively, independent flues may be omitted if a metal hood extending on all sides beyond,*

*and located immediately over, the gas stove is provided and maintained, and the space within such hood connected by a proper opening to a ventilating flue. Under no circumstances shall a gas stove be directly connected with a flue that communicates with another apartment.*

§ 93. Water-closet accommodations. In every tenement-house hereafter erected there shall be a separate water-closet in a separate compartment within each apartment, provided that where there are apartments consisting of but one or two rooms, there shall be at least one water-closet for every three rooms. Every water-closet and bath hereafter placed in any tenement-house shall be placed in a compartment completely separated from every other water-closet and bath; such compartment shall be not less than two feet and four inches wide, and shall be inclosed with plastered partitions, which shall extend to the ceiling. In tenement-houses erected after April tenth, nineteen hundred and one, such compartments shall have a window opening directly upon the street or yard, or upon a court [or vent shaft] *of the dimensions specified in this chapter.* In tenement-houses erected prior to April tenth, nineteen hundred and one, such compartment shall have a window opening directly upon the street, or upon a yard not less than four feet deep, or upon a court or shaft of not less than twenty-five square feet in area, open to the sky without roof or skylight. Every such window shall be at least one foot by three feet between stop beads, and the entire window shall be made so as to readily open. When, however, such water-closet compartment is located on the top floor and is lighted and ventilated by a skylight over it, or is located at the bottom of a shaft or court of lawful size, and is lighted and ventilated by a skylight over it at the bottom of such shaft or court, no window shall be necessary, provided the roof of such skylight contains at least three square feet of glazed surface and is arranged so as to readily open. Nothing in this section in regard to the separation of water-closet compartments from each other shall apply to a general toilet-room containing several water-closets hereafter placed in a tenement-house, provided such water-closets are supplemental to the water-closet accommodations required by law for the use of the tenants of the said house. Nothing in this section in regard

to the ventilation of water-closet compartments shall apply to a water-closet hereafter placed in a tenement-house, where it is provided to replace a defective fixture in the same position and location. No water-closet shall be maintained in the cellar of any tenement-house without a special permit in writing from the department charged with the enforcement of this chapter, which shall have power to make rules and regulations governing the maintenance of such closets. Every water-closet compartment hereafter placed in any tenement-house shall be provided with proper means of lighting the same at night. If fixtures for gas or electricity are not provided in said compartment, then the door of said compartment shall be provided with translucent glass panels, or with a translucent glass transom, not less in area than four square feet. The floor of every such water-closet compartment shall be made water-proof with asphalt, tile, stone or some other water-proof material; and such water-proofing shall extend at least six inches above the floor so that the said floor can be washed or flushed out without leaking. No drip trays shall be permitted. No water-closet fixtures shall be inclosed with any woodwork.

§ 97. Water-closets. *There shall be provided at least one water-closet for every two families in each tenement-house [in all tenement-houses] existing on April eleventh, nineteen hundred and one[.]. In all such houses the woodwork inclosing all water-closets shall be removed from the front of said closets, and the space underneath the seat shall be left open. The floor or other surface beneath and around the closet shall be maintained in good order and repair and if of wood shall be kept well painted with light colored paint. Where any part of a tenement-house, or of the lot upon which it is situated, is used for other than tenement-house purposes, the department charged with the enforcement of this chapter may require such additional water-closets for use in connection with the part of the premises so occupied as may be necessary. Except as in this chapter otherwise provided, such water-closets and all plumbing in connection therewith shall be in accordance with the ordinances and regulations in relation to plumbing and drainage.*

§ 7. Section seventy-nine of said chapter is hereby repealed.

§ 8. This act shall take effect immediately.

[ASSEMBLY JOURNAL.] 590

(No. 24.)

AN ACT to amend the agricultural law, in relation to diseases of domestic animals.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Sections ninety, ninety-nine and one hundred and two of chapter nine of the laws of nineteen hundred and nine, entitled "An act in relation to agriculture," constituting chapter one of the consolidated laws, are hereby amended to read as follows:

§ 90. Suppression of infectious and contagious diseases. No person shall knowingly bring any domestic animal into this state which is suffering with an infectious or contagious disease. Any person knowingly bringing a domestic animal suffering with an infectious or contagious disease into this state shall be liable to and shall pay all damages, suffered or caused by the spreading of such disease, to the owner or owners of animals to which such disease is imparted by such animal or animals so brought in, as liquidated damages in addition to the penalties to the state of New York, as provided in section fifty-two of the agricultural law; provided, that nothing herein contained shall be construed to prevent or make unlawful the transportation of such animals through this state on railroads or boats. Any person bringing into the state such animals which are used for breeding, feeding or dairy purposes without taking due precaution to ascertain whether such animals are suffering with such a disease shall be presumed to have brought them in knowingly and in violation of the statute. Under the foregoing provisions of this section, any animal received from outside the state and distributed under the supervision of the United States department of agriculture or the state department of agriculture and for which a permit or certificate has been issued by either of said departments, shall be deemed to have been handled with due precaution. Whenever any infectious or contagious disease affecting domestic animals shall exist, be brought into or break out in this state the commissioner of agriculture shall take measures to promptly suppress the same, and to prevent such disease from spreading. The local

boards of health shall notify the commissioner of the existence of infectious or contagious disease affecting domestic animals in the districts subject to their jurisdiction. *Upon petition of breeders and owners of cattle in any county or town, providing the signers of such petition, in the opinion of the commissioner of agriculture, represent the sentiment of the breeders and owners of a majority of such cattle in such county or town, the commissioner of agriculture may issue an order directing all persons within the said county or town bringing cattle into said county or town to hold such cattle in strict quarantine at the point of destination therein until duly examined and released by the commissioner of agriculture, unless such animals have been duly examined by a competent veterinarian prior to bringing them therein and found to be free from tuberculosis. The result of such prior examination must have been duly reported to the commissioner of agriculture and be such as to satisfy him that the animals are free from tuberculosis. The commissioner of agriculture may examine or cause to be examined all the cattle in such county or town for the purpose of ascertaining whether they are suffering with tuberculosis. All animals found to be suffering with such disease shall be disposed of by him as provided in the agricultural law.* Any person importing or bringing into this state neat cattle for dairy or breeding purposes shall report immediately upon bringing such cattle into the state to the commissioner of agriculture in writing, giving a statement of the number of cattle thus brought in, the place where they were procured, the lines over which they were brought and their point of destination within the state, stating when they will arrive at such point of destination, and upon the filing with the commissioner of agriculture at the time of making the said report, a certificate issued by a duly authorized veterinary practitioner, to the effect that he has duly examined said animals and that said animals are free from any infectious or contagious disease, the commissioner of agriculture may issue a permit to said person to remove said cattle immediately. Otherwise, said person shall hold or detain such animals at least ten days at such point of destination for inspection and examination, provided they are not sooner examined or inspected by the commissioner of agriculture



or his duly authorized agent. Each animal brought into the state in violation of the above provisions shall constitute a separate and distinct violation of this chapter. The provisions of this section, relating to the importation of neat cattle for dairy or breeding purposes, shall not apply to cattle imported into this state at a point where there is federal inspection, so far as the same shall relate to making advance reports to the commissioner of agriculture. But parties importing or receiving such cattle at such places shall give such information to the commissioner of agriculture as he may from time to time request relative to such cattle so imported or brought in.

§ 99. Appraisal of diseased animals. An appraiser shall determine the value of each animal directed to be slaughtered. Such value shall be the market value of such animal at the time of making the appraisal, but the appraisal value [of each bovine animal] shall not exceed the sum of [one hundred and twenty-five dollars, provided, however, that the appraised value shall not exceed the sum of seventy-five dollars, except for registered thoroughbred animals,] *three hundred dollars for each registered thoroughbred bovine animal, or one hundred dollars each for other bovine animals*, and the appraisal of each equine animal shall not exceed the sum of one hundred and twenty dollars. If the value of the condemned animals determined by the appraiser is not satisfactory to the owner of such animals, the value shall be determined by arbitrators, one to be appointed by the state appraiser and one by the owner of the animals. If such arbitrators are not able to agree as to the value of the animals, a third arbitrator shall be appointed by them. The value determined by such arbitrator shall not exceed the limits established by this article and, after approval by the commissioner of agriculture, shall be final. The arbitrators selected by the owner of the animals shall be paid by the said owner, the other arbitrator or arbitrators shall be paid by the state at a rate of compensation not to exceed five dollars per day and necessary expenses. Such appraiser of condemned animals and the arbitrators appointed under this section may administer oaths to and examine witnesses.

§ 102. Compensation [of] to owners of animals [destroyed] *and disposition of animals for experimental and demonstration purposes.* The actual appraised value at the time they are killed

of all animals killed under the provisions of this article, which shall be found upon a post-mortem examination not to have had the disease for which they were killed, unless the same were killed on account of the violation of quarantine regulations, shall be paid to the owners of such animals. If such animals are found, upon post-mortem examination, to have been suffering from glanders, then they shall be paid for in the manner following: If an animal has glanders, not manifest by clinical symptoms, the owner thereof shall be paid eighty per centum of the appraised value. If the animal has glanders showing clinical symptoms, the owner thereof shall be paid therefor fifty per centum of the appraised value. If such animals are found upon post-mortem examination to have been suffering from tuberculosis, then they shall be paid for in the manner following, to wit: [If an animal has localized tuberculosis,] the owner thereof shall be paid eighty per centum of the appraised value. [If the animal has generalized tuberculosis, the owner thereof shall be paid therefor fifty per centum of the appraised value.]. [b] But no animal slaughtered under the provisions of this article shall be paid for as herein provided, unless the said animal shall have been within the state for a period of at least six months, if suffering from tuberculosis, or twelve months, if suffering from glanders. *Provided, no indemnity shall be paid for any animal, as provided herein, until the owner thereof shall have entered into a written agreement with commissioner of agriculture to the effect that he will exercise due precaution to prevent a recurrence of the disease among his animals during a period of four years immediately subsequent thereto, and such agreement must provide for care and precaution by approved methods to that end. Any violation of a contract so made on the part of the owner of such cattle shall be deemed to be a violation of the agricultural law, and provided further, that no test or examination shall be made of any animal, as provided herein, when it is the intention to send such animal out of the state after it has passed such test. If the meat of the slaughtered bovine animal shall be passed for use as food, under official regulations, the commissioner of agriculture is hereby authorized to sell the same and the proceeds from the sale of the meat, hide and other marketable parts of the said animal*

shall be paid [into the state treasury] to the owner and shall apply as a payment upon whatever indemnity he may be entitled to. For each and every day the owner or custodian of the animals condemned is obliged to keep them, in excess of seven days from the date of the condemnation, he shall be allowed and paid the sum of twenty-five cents per day per head. The certificate of appraisal and the statement of the results of the post-mortem examination shall be presented by the owner or his legal representative or assigns to the commissioner of agriculture. The commissioner of agriculture shall issue his order for the amount due as shown by such certificate and statement, after he had found them to be correct, which shall be paid by the state treasurer on the warrant of the comptroller out of moneys appropriated therefor. No compensation shall be made to any person who has willfully concealed the existence of disease among his animals or upon his premises, or who in any way by act or by wilful neglect has contributed to spread the disease sought to be suppressed or prevented, nor for any animal which upon a post-mortem examination is found to have the disease on account of which it was slaughtered or any dangerously contagious or infectious disease that would warrant the destruction of such animal, except as herein provided. *The commissioner of agriculture may reserve for experimental or demonstration purposes any animal condemned under the provisions of this article. If such animal is suffering from tuberculosis, compensation shall be the same as herein provided for animals found upon post-mortem examination to have been suffering from tuberculosis. If such animal is suffering from glanders, compensation shall be the same as herein provided for animals suffering from glanders not manifest by clinical symptoms. The commissioner of agriculture may dispose of such animals on such terms as he deems most advantageous to the state; said animal thereafter to be kept under instructions from the commissioner of agriculture, in accordance with the provisions and requirements of the agricultural law.*

§ 2. Two hundred thousand dollars (\$200,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the purposes of this act.

§ 3. This act shall take effect immediately.

(No. 25.)

AN ACT to amend the public health law, in respect to conferring upon the city of New York control over the potable water supply of said city.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Sections seventy, seventy-one and seventy-three of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," and known as the public health law, are hereby amended to read as follows:

§ 70. Rules and regulations of department. The state department of health may make rules and regulations for the protection from contamination of any or all public supplies of potable waters and their sources within the state, *and the commissioner of water supply, gas and electricity of the city of New York may make such rules and regulations subject to the approval of the state department of health for the protection from contamination of any or all public supplies of potable waters and their sources within the state where the same constitute a part of the source of the public water supply of said city.* If any such rule or regulation relates to a temporary source or act of contamination, any person violating such rule or regulation shall be liable to prosecution for misdemeanor for every such violation, and on conviction shall be punished by a fine not exceeding two hundred dollars, or imprisonment not exceeding one year, or both. If any such rule or regulation relates to a permanent source or act of contamination, said department may impose penalties for the violation thereof or the noncompliance therewith, not exceeding two hundred dollars for every such violation or noncompliance. Every such rule or regulation shall be published at least once in each week for six consecutive weeks, in at least one newspaper of the county where the waters to which it relates are located. The cost of such publication shall be paid by the corporation or municipality benefited by the protection of the water supply, to which the rule or regulation published relates. The affidavit of the printer, publisher or proprietor of the newspaper in which such rule or regulation is

published may be fined, with the rule or regulation published, in the county clerk's office of such county, and such affidavit and rule and regulation shall be conclusive evidence of such publication, and of all the facts therein stated in all courts and places.

§ 71. Inspection of water supply. The officer or board having by law the management and control of the potable water supply of any municipality, *and in the city of New York, the commissioner of water supply, gas and electricity*, or the corporation furnishing such supply, may make such inspection of the sources of such water supply as such officer, board or corporation deems advisable and to ascertain whether the rules or regulations of the state department *and of the commissioner of water supply, gas and electricity of the city of New York*, are complied with, and shall make such regular or special inspections as the state commissioner of health, *or the commissioner of the department of water supply, gas and electricity of the city of New York*, may prescribe. If any such inspection discloses a violation of any such rule or regulation relating to a *temporary or permanent* source or act of contamination, such officer, board or corporation shall cause a copy of the rule or regulation violated to be served upon the person violating the same, with a notice of such violation. If the person served does not immediately comply with the rule or regulation violated, such officer, board or corporation, *except in a case concerning the violation of a rule or regulation relating to a temporary or permanent source or act of contamination affecting the potable water supply of the city of New York*, shall notify the state department of the violation, which shall immediately examine into such violation; and if such person is found by the state department to have actually violated such rule or regulation, the commissioner of health shall order the local board of health of such municipality wherein the violation or noncompliance occurs, to convene and enforce obedience to such rules or regulation. If the local board fails to enforce such order within ten days after its receipt, the corporation furnishing such water supply or the municipality deriving its water supply from the waters to which such rule or regulation relates, or the state commissioner of health or the local board of health of the municipality wherein the water supply protected by these rules is used, or any person interested in the protection of the purity of the water

supply, may maintain an action in a court of record which shall be tried in the county where the cause of action arose against such person, for the recovery of the penalties incurred by such violation, and for an injunction restraining him from the continued violation of such rule or regulation. *If the person served does not comply within five days with the rule or regulation violated, in case such rule or regulation relates to a temporary or permanent source or act of contamination affecting the potable water supply of the city of New York, the commissioner of water supply, gas and electricity of said city may summarily enforce compliance with such rule or regulation, and may summarily abate or remove the cause of the violation of such rule or regulation or the nuisance so created, and to that end may employ such force as may be necessary and proper; provided, however, that no building or improvements shall be removed, disturbed or destroyed by the said commissioner of water supply until he shall cause measurements to be made of the buildings and photographs of the exterior views thereof, which measurements and photographs shall be at the disposition thereafter of the owners or their attorneys, and failure to exercise such right of abatement shall not be deemed a waiver thereof. Failure to comply within five days with such rule and regulation shall further entitle the city of New York to maintain an action in any court having jurisdiction thereof for the recovery of the penalties incurred by such violation and for an injunction restraining the person or persons violating such rule or regulation, or creating or continuing such nuisance, from the continued violation of such rule or regulation or continuance of such nuisance; the remedy by abatement being not exclusive.*

§ 73. Sewerage. When the state department of health, or the commissioner of water supply, gas and electricity of the city of New York, shall, for the protection of a water supply from contamination, make orders or regulations the execution of which will require or make necessary the construction and maintenance of any system of sewerage, or a change thereof, in or for any village or hamlet, whether incorporated or unincorporated, or the execution of which will require the providing of some public means of removal or purification of sewage, the municipality or corporation owning the water works benefited thereby shall, at its own expense,

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construct and maintain such system of sewerage, or change thereof, and provide and maintain such means of removal and purification of sewage and such works or means of sewage disposal as shall be approved by the state department of health, *and for that purpose said municipality or corporation may acquire, under the general condemnation law, the necessary real estate or interest therein whether now used for public or private purposes.* When the execution of any such regulations of the state department of health, *or the commissioner of water supply, gas and electricity of the city of New York,* will occasion or require the removal of any building or buildings, the municipality or corporation owning the water works benefitted thereby shall, at its own expense, remove such buildings and pay to the owner thereof all damages occasioned by such removal. When the execution of any such regulation will injuriously affect any property the municipality or corporation owning the water works benefitted thereby shall make just and adequate compensation for the property so taken or injured *and for all injuries caused to the legitimate use or operation of such property.* Until such construction or change of such system or systems of sewerage, and the providing of such means of removal or purification of sewage, and *until* such works or means of sewage disposal and the removal of any building are so made by the municipality or corporation owning the water works to be benefitted thereby at its own expense, and *until, except in the case of a municipality,* [until] the [municipality or] corporation owning the water works benefitted shall make just and adequate payment for all injuries to property and for all injuries caused to the legitimate use or operation of such property, there shall be no action or proceeding taken by any such municipality, officer, board, person or corporation against any person or corporation for the violation of any regulation of the state department of health under this article, and no person or corporation shall be considered to have violated or refused to obey any such rule or regulation. The owner of any building the removal of which is occasioned or required, or which has been removed by any rule or regulation of the state department of health, *or the commissioner of water supply, gas and electricity of the city of New York,* made under the provisions of this article, and all persons whose rights of property are injuriously affected by

the enforcement of any such rule or regulation, shall have a cause of action against the municipality or corporation owning the water works benefited by the enforcement of such rule or regulation, for all damages occasioned or sustained by such removal or enforcement, *including all injuries caused to the legitimate use or operation of such property*, and an action therefore may be brought against such municipality or corporation in any court of record in the county in which the premises or property affected is situated and shall be tried therein; or such damages may be determined by a special proceeding in the supreme court or the county court of the county in which the property is situated. Such special proceedings shall be commenced by petition and notice to be served by such owner upon the municipality or corporation in the same manner as for the commencement of condemnation proceedings. Such municipality or corporation may make and serve an answer to such petition as in condemnation proceedings. The petition and answer shall set forth the claims of the respective parties, and the provisions of the condemnation law shall be applicable to the subsequent proceedings upon the petition and answer, if any. Either party may, before the service of the petition or answer respectively, offer to take or pay a certain sum, and no costs shall be awarded against either party unless the judgment is more unfavorable to him than his offer. *Provided, however, that in the case of a summary abatement by a municipality as hereinbefore provided, no costs shall be awarded against the owner of the property damaged, and the commissioners of appraisal in their report shall recommend such additional sum as may in their judgment be reasonable as compensation for witnesses and other necessary expenses of claimant. Such municipality shall, within three calendar months after the confirmation of the report of the commissioners of appraisal, pay to the respective owners and bodies politic or corporate, mentioned or referred to in said report, in whose favor any sum or sums of money shall be estimated and reported by said commissioners, the respective sum or sums so estimated and reported in their favor respectively, with lawful interest thereon. And in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons or bodies politic or corporate in whose favor the same shall be so reported, his, her, or their executors, administrators or successors, at any time or times.*



*after application first made by him, her, or them to such municipality for payment thereof, may sue for and recover the same, with lawful interest as aforesaid, and the costs of suit in any proper form of action against such municipality in any court having cognizance thereof, and it shall be sufficient to declare generally for so much money due to the plaintiff or plaintiffs therein by virtue of this act, and the report of said commissioners, with proof of the right and title of the plaintiff or plaintiffs to the sum or sums demanded shall be conclusive evidence in such suit or action.*

§ 2. Nothing herein contained shall repeal or modify any of the provisions of chapter seven hundred and twenty-four of the laws of nineteen hundred and five, as amended by chapter three hundred and fourteen of the laws of nineteen hundred and six.

§ 3. This act shall take effect immediately.

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(No. 26.)

AN ACT to repeal chapter seven hundred and sixty-five of the laws of nineteen hundred, entitled "An act providing for the opening, laying out and improving of Remsen avenue, in the borough of Brooklyn, in the city of New York."

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Chapter seven hundred and sixty-five of the laws of nineteen hundred, entitled "An act providing for the opening, laying out and improving of Remsen avenue, in the borough of Brooklyn, in the city of New York," is hereby repealed.

§ 2. This act shall take effect immediately.

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(No. 27.)

AN ACT modifying the powers of the commission in lunacy, boards of managers and officers of the state hospitals.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Sections eighteen, fifty-one, fifty-six, sixty-five and eighty-five of chapter twenty-seven of the consolidated laws, and

section four of chapter one hundred and fifty-seven of the laws of nineteen hundred and nine, are hereby amended to read as follows:

§ 4. Office and clerical force of commission; *engineers*, medical and other inspectors. The commission shall be provided by the proper authorities with a suitably furnished office in the state capitol, where it shall hold stated meetings at least once in three months. It may hold other meetings, at such office or elsewhere, as it may deem necessary. It may employ a secretary, a stenographer, *inspectors*, *engineers* and such other employees as may be necessary. The salaries and reasonable expenses of the commission, *inspectors*, *engineers*, *experts* and of the necessary clerical assistants shall be paid by the treasurer of the state on the warrant of the comptroller, out of any moneys appropriated for the support of the insane. The commission in lunacy may also appoint a medical inspector, who shall be a well-educated physician, a graduate of an incorporated medical college, and who shall have had actual experience in an institution for the care and treatment of the insane. Such inspector shall receive an annual salary to be fixed by the commission subject to the approval in writing of the governor and the action of the legislature, not to exceed five thousand five hundred dollars, and all his actual and necessary traveling expenses incurred by him in the performance of his duties, which shall be audited and paid in the same manner as the other expenses of the commission. He shall, subject to the direction of the commission, visit and inspect the several state hospitals and other institutions for the insane which are subject to the supervision, visitation and inspection of the commission. He shall, subject to the direction of the commission, make an examination, so far as the circumstances may permit, of the patients confined in such hospitals and institutions, especially those admitted thereto since his preceding visit, giving such as may request it suitable opportunity to converse with him apart from the officers and attendants. He shall perform such other duties as may be prescribed and directed by the commission. *The commission may employ such other experts, regularly or from time to time, as may be necessary to enable it to advise the purchasing committee and the state hospitals as to purchasing, handling and consumption of supplies; the operation of the farms, and engineering matters.*

*The commission shall furnish the purchasing committee clerical and advisory help. Expenses of the purchasing committee shall be apportioned by the commission among the hospitals on such basis as it deems equitable.*

[§ 18. Hospital attorneys. The commission shall appoint an attorney for each state hospital outside the city of New York and the county of Suffolk, and one attorney who shall act as such for the Manhattan state hospital and the Central Islip state hospital, and one attorney who shall act as such for the Long Island state hospital and the Kings Park state hospital. Each such attorney shall conduct all the legal business required to be done, for or on account of the hospital or hospitals, for which he is appointed, at a stated sum to be fixed by the commission, and which shall be charged upon the maintenance account, and paid in the same manner as other expenses of the hospital.]

§ 51. Quarterly estimates of *expenditures* [expenses]; emergency fund. The superintendent of each of the state hospitals shall, once in each three months, as the commissioners may determine, cause to be prepared triplicate estimates *in such detail as may be required by the commission*, [in minute detail,] of the *expenditures* [expenses] required for the hospital of which he is the superintendent, for the ensuing three months. He shall submit two of such triplicates to the commission and file the third copy in the office of the superintendent. The commission may revise estimates for supplies or other expenditures either as to quantity, quality, or the estimated cost thereof, and shall certify that it has carefully examined the same and that the *expenditures* [articles] contained in such estimates, as approved or revised by it, are actually required for the use of the hospital, and shall thereupon present such estimate and certificate to the comptroller. Upon the revision and approval of such estimate by the commission, the comptroller shall authorize the superintendent as treasurer, or such other officer as the commission may designate as provided in this chapter, to make drafts on the comptroller, as the money may be required for the purposes mentioned in such estimates, which drafts shall be paid on the warrant of the comptroller, out of the funds in the treasury of the state held for the care of the insane and the maintenance of state hospitals. In every such estimate, there shall be

a sum named, not to exceed one thousand dollars, as an emergency fund for which no minute detailed statement need be made. No money shall be expended for the use of any of the state hospitals, except as provided in this section. And except that a sum not exceeding two thousand dollars may, when authorized by the comptroller, be set apart by the commission to each hospital as a commutation ticket fund, to be used under the direction and control of the superintendent for the purchase of commutation tickets. Such tickets shall be sold at cost under the direction of the superintendent, for the use of the hospital. The amount received from the sale of such tickets shall be paid into such fund and shall be available for the purchase of additional tickets as above provided. Libraries may be furnished to any state hospital by the regents of the University of the State of New York, subject to regulations adopted by them and the commission, the expense of which shall be included in the quarterly estimates of the hospitals.

Any general expenses necessarily incurred by the commission for or on account of the state hospitals shall be apportioned to such hospitals on the basis of the number of patients, and included in the estimates of such hospitals, made as provided in this section under the direction of the commission.

§ 56. Purchases and contracts. All purchases of supplies for the use of the hospital shall be made for cash or on credit or time, not exceeding sixty days; every voucher shall be duly filled out, and with every abstract of vouchers paid, there shall be proof on oath that the voucher was properly filled up and the money paid. No expenditure for supplies or other purposes shall be made for the benefit of such hospital, by contract or otherwise, unless in conformity with the provisions of this chapter in relation to estimates. No member of the commission, manager or officer of a hospital shall be interested, directly or indirectly, in the furnishing of material, labor or supplies for the use of the hospital, nor shall any such manager or officer act as attorney or counsel for such hospital. *The commission shall from time to time appoint a purchasing committee, to consist of three superintendents and two stewards, who shall serve as such purchasing committee and, subject to the approval of the commission, shall determine what articles of supplies it is practicable and desirable to purchase by joint con-*

*tracts for the state hospitals, also the character and qualities of such supplies, and, subject to the approval of the commission, draw specifications and enter into contracts for the supplies to be purchased jointly and have samples and supplies tested chemically or otherwise for the purpose of determining their quality. Contracts shall be let to the lowest responsible bidder. All bids may be rejected. The purchasing committee shall determine the period for which such contracts shall be let, except that no contract shall be let for a period longer than one year. A determination to purchase any article by joint contract shall be binding upon all the hospitals, except that any hospital may be exempted by the commission from the requirement to purchase any such article. [Contracts subject to the approval of the commission shall be entered into jointly, by the stewards of the state hospitals, for such staple articles of supplies, as it may be found feasible by the commission, to purchase for the use of the hospitals.] Such contracts shall not be let except in conformity with the provisions of this chapter relating to estimates. The state hospitals may manufacture such supplies and materials to be used in any of such hospitals as can be economically made therein. All goods for the use of the hospitals shall be bought, as far as practicable, of manufacturers or their immediate agents. All contracts, if let, shall, subject to the provisions of section fifty-one relating to estimates, be awarded to the lowest responsible bidders. A member of the commission or an officer, manager or employee of a state hospital shall not receive a gift or reward for himself or the hospital from any person, firm or corporation dealing in goods, or supplies suitable or necessary for the use of the hospital. All purchases and contracts made and executed in pursuance of law, prior to June first, nineteen hundred and five, shall thereafter be given full force and effect, notwithstanding the change in the management of the state hospitals.*

§ 65. Erection, alteration, repairs and improvements of state hospital buildings. All plans and specifications for the erection, alteration, repairs and improvements of state hospital buildings shall be prepared by the state architect, but the supervising engineer of the state commission in lunacy may, when directed by the commission, prepare plans and specifications for the installation, alteration, repairs and improvements of the mechanical

appliances and fixtures in the existing state hospitals, which before adoption shall be approved by the state architect. The state commission in lunacy shall adopt or reject any such plans or specifications and no such work shall be begun until the plans and specifications therefor have been adopted, but before the adoption thereof the commission shall submit the same to the board of managers of such hospital, and shall allow such board a period of not less than fifteen, and not more than sixty days in which to submit a statement of their opinions and suggestions in regard thereto. Contracts for such erection, alteration, repairs and improvements as may be let by the commission, subject to the approval of the governor, and comptroller, for the whole or any part of the work to be performed, and in the discretion of the commission such contracts may be sublet. Special orders for such work in amounts less than one thousand dollars may be issued by the state architect upon authorization by the commission. The commission shall determine to what extent and for what length of time advertisements are to be inserted in newspapers for proposals for the erection, alteration, repairs or improvements of state hospital buildings. A preliminary deposits, or certified check drawn upon some legally incorporated bank in this state shall in all cases be required as an evidence of good faith upon all proposals for buildings, alterations, repairs or improvements, to be deposited with the treasurer of the hospital for which the work is to be performed, in an amount to be determined by the state architect, but the work done by special orders in an amount less than one thousand dollars need have no such deposit or check provided payment is to be made only after the work is completed and approved. All contracts in an amount greater than one thousand dollars shall have the performance thereof secured by a sufficient bond or bonds to be approved by and filed with the commission. *In all cases in which the contracts to be let are for the purpose of connecting any such institution with the system or line or lines maintained or operated by any public service corporation or repairing or improving any such connection, such public service corporation shall not be required to make the preliminary deposit or to give the certified check upon submitting its proposal as hereinbefore provided nor to give any bond for the performance of the work, nor shall any advertising for proposals be necessary*

where the public service corporation is to perform the work. The work or erection, alteration, repairs or improvements of any building or plant may be done by the employment of inmate or outside labor, either or both, and by the purchase of materials in the open market whenever in the opinion of the commission and state architect such course shall be more advantageous to the state, but no compensation shall be allowed for the employment of inmate labor. Where money is appropriated for any specific purpose other than maintenance and the work, materials, furniture, apparatus or other supplies are not to be performed or purchased pursuant to contract or special order duly made therefor, such money shall be expended pursuant to special fund estimates made to the commission by the superintendent of the hospital for which such appropriation is made. The law governing the revision of estimates of the *expenditures* [expense] required for the state hospitals for the insane shall apply to such estimates, and when such work is to be performed in accordance with the plans and specifications prepared by the state architect or is to be paid for from appropriations for the erection, alteration, repairs or improvements of buildings or plant, such estimates shall also be subject to his approval. Except as above specified all such work shall be done by contract or special order. The form of the contract or special order shall be prescribed by the state architect. All payments on contracts or special orders shall be made on the certificate of the state architect approved by the commission as the work progresses or the purchase of material is made and upon bills duly certified. No item of an appropriation made for the performance of such work shall be available except for advertising unless one or more contracts, special orders or special fund estimates shall first have been made for the completion of such work within the appropriation therefor. All contracts for the erection, alteration, repairs or improvements of hospitals shall contain a clause that the contract shall only be deemed executory to the extent of the moneys available, and no liability shall be incurred by the state beyond the moneys available for the purpose. If an appropriation be made for the erection, alteration, repairs or improvements of buildings or plant in an appropriation act specifying two or more objects for which the appropriation is made and any one of such objects shall have been accomplished for a sum

less than the amount specified in the act, the unexpended balance shall be applicable to the completion of any other work specified in the act, provided that after due advertisement no bids shall have been received within the amount specifically appropriated therefor.

§ 85. Liability for care and support of poor and indigent insane. All poor and indigent insane persons not in confinement under criminal proceedings, shall, without unnecessary delay, be transferred to a state hospital and there wholly supported by the state. The costs necessarily incurred in the transfer of patients to state hospitals shall be a charge upon the state. The commission shall, *except as hereinafter provided*, secure from the patient's estate and from relatives or friends who are liable or may be willing to assume the costs of support of inmates of state hospitals supported by the state, reimbursement at the rate fixed by the commission, in whole or in part, of the money thus expended, either directly or through the superintendents or treasurers of the respective hospitals, as provided in section fifty-four of this chapter. *The commission may, in its discretion, waive the whole or a portion of the claim of the state for the cost of the support of a patient against the estate of such patient, whenever the court by which a committee was appointed shall have directed such committee to apply any part of the patient's estate for the maintenance of his family.* The commission may appoint agents, whose duty it shall be to secure from relatives and friends who are liable therefor, or who may be willing to assume the cost of support of any inmate of a state hospital who is being supported by the state, reimbursement, in whole or in part, of the money so expended. The compensation of each agent shall not exceed five dollars a day, and the necessary traveling and other incidental expenses incurred by him, to be approved by the comptroller. The commission may fix the rate to be paid for the support of an inmate of a state hospital by the committee of such inmate or by relatives liable for such support or by those not liable for such support but willing to assume the cost thereof; but such rate shall be sufficient to cover a proper proportion of the cost of maintenance and of necessary repairs and improvements. The maintenance of any inmate of a state hospital, committed



thereto upon a court order arising out of any criminal action, shall be paid by the county from which such inmate was committed.

§ 2. This act shall take effect immediately.

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(No. 28.)

**AN ACT** making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The treasurer shall pay, on the warrant of the comptroller, from the several funds specified, to the persons, and for the purposes indicated in this act, the amounts named or so much thereof as shall be sufficient to accomplish in full, the purposes designated by the appropriations, which several amounts are hereby appropriated out of any moneys in the treasury not otherwise appropriated. No warrants shall be issued, except in the case of salaries, until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, upon vouchers presented as required by section twelve of the state finance law. Whenever an appropriation shall have been provided otherwise the sum herein directed to be paid shall not be considered as an addition to such other appropriation unless it shall be expressly so declared in this act.

### **FROM THE GENERAL FUND.**

#### **EXECUTIVE.**

#### **EXECUTIVE OFFICE.**

For necessary expenses including furniture, books, binding, blanks, printing, messages, traveling and other incidental expenses, five hundred dollars, or so much thereof as may be necessary.

\$500 00

For postage and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, one thousand dollars, or so much thereof as may be necessary.

1,000 00

For incidental expenses of the executive mansion, rent of stable and equipage, two thousand dollars, or so much thereof as may be necessary, to be paid by the comptroller on the certificate of the governor or the secretary to the governor.	2,000 00
For compensation of persons appointed to examine and investigate departments, boards, bureaus and commissions of the state and for expenses necessarily incurred in the examinations or investigations of such departments, boards, bureaus and commissions, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For the reasonable cost and expense of proceedings by or before the governor upon charges against or relative to the removal of any officer, including necessary assistance and the taking and reporting of the evidence and other expenses necessary, ten thousand dollars, or so much thereof as may be necessary, to be paid on the certificate of the governor.	10,000 00
For the compensation and expenses of persons employed in the examination of legislative bills for the year nineteen hundred and eleven, to be paid on the certificate of the governor, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For printing the state papers of the governor for the year nineteen hundred and ten, eight hundred dollars, or so much thereof as may be necessary.	800 00

### ADMINISTRATIVE.

#### OFFICE OF THE SECRETARY OF STATE.

For deficiency in appropriation for reindexing corporation records, including compensation for services, printing, binding, cards, cases and other necessary expenses in connection therewith, five thousand dollars, or so much thereof as may be necessary.	5,000 00
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For fees of surrogates in furnishing to the secretary of state copies of letters of administration and copies of wills probated in other states, and subsequently filed in this state as provided by section twenty-five hundred and three, code of civil procedure, three hundred dollars, or so much thereof as may be necessary.	300 00
For expenses incident to the inauguration of his excellency, John A. Dix, governor of the state of New York, four thousand dollars, or so much thereof as may be necessary.	4,000 00
For personal expenses and disbursements of the secretary of state and his deputy from January first, nineteen hundred and eleven, to October first, nineteen hundred and eleven, three hundred fifty dollars.	350 00
For compensation for temporary employees, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For increase in salaries of employees of various bureaus, in accordance with rules of the civil service commission, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the purpose of complying with the provisions of sections one hundred and fifty-five, one hundred and sixty-seven, four hundred and eighty-five, one hundred and eighty-two and three hundred and twenty of chapter twenty-two of the laws of nineteen hundred and nine, being the election law, in addition to eighteen thousand dollars which may be appropriated therefor in order to provide for further expenses in amendment of the election law, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

#### OFFICE OF THE COMPTROLLER.

For deficiency in salary of the secretary to the comptroller from January first to September thirtieth, nineteen hundred and eleven, nine hundred seventy-five dollars.	975 00
For deficiency in salaries of deputies to the comptroller from July first to September thirtieth, nineteen hun-	

dred and eleven, seven hundred fifty dollars, or so much thereof as may be necessary.	750 00
For deficiency in salaries of employees in the corporation tax bureau, as follows: Eleventh grade, one employee, from July first to September thirtieth, nineteen hundred and eleven, seven hundred fifty dollars;	750 00
ninth grade, one employee, from June fifteenth to September thirtieth, nineteen hundred and eleven, five hundred eighty-three dollars and thirty-three cents.	583 33
For deficiency in salary of the chief clerk of the stock transfer tax bureau, from February first to September thirtieth, nineteen hundred and eleven, six hundred sixty-six dollars and sixty-six cents.	666 66
For deficiency in salary of one employee, ninth grade, land tax bureau, from April first to September thirtieth, nineteen hundred and eleven, one hundred seventy-five dollars.	175 00
For deficiency in salary of the document clerk from April first to September thirtieth, nineteen hundred and eleven, two hundred fifty dollars.	250 00
For the comptroller for the payment of additional services rendered by G. W. McElroy, in the performance of the duties of chief clerk of the transfer tax bureau in addition to his duties as assistant chief clerk, during the period from February first, nineteen hundred and ten, to July first, nineteen hundred and eleven, two thousand one hundred twenty-five dollars.	2,125 00
For the widow of the late Willis E. Merriman, who served the state for fifty years, during forty-five of which he was employed in the comptroller's office, and who died March twenty-second, nineteen hundred and eleven, two thousand two hundred fifty dollars, an amount equal to that portion of his annual compensation which would have been paid him from April first to September thirtieth, nineteen hundred and eleven, had he continued to live to that date.	2,250 00
For deficiency in appropriation for compensation and expenses of counsel employed by the comptroller in	

legal actions or proceedings, for expert services in the matter of investigations, one thousand one hundred twenty-five dollars, or so much thereof as may be necessary.	1,125 00
For deficiency in appropriation for furniture, books, binding, blanks, printing, messages and other incidental office expenses, including rent of New York city office, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For deficiency in appropriation for postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the services and necessary traveling expenses of the examiners and assistants in the auditor's bureau, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For deficiency in the appropriation for printing and incidental expenses of the bureau of mortgage tax, municipal accounts and court and trust funds, and detective licenses, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For electric wiring and fixtures for the comptroller's office and for other necessary furniture and repairs, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For the comptroller, for funds for stamps erroneously affixed and canceled in the payment of a tax upon a transfer of stock, to be paid upon satisfactory proof being furnished, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the payment of interest on temporary loans to meet legal demands on the treasury in pursuance of section fourteen of the state finance law, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For the actual and necessary traveling expenses of examiners in the examination of the accounts of the sev-	

eral counties, cities of the second and third classes and incorporated villages of the state, pursuant to article three of chapter twenty-nine of the laws of nineteen hundred and nine, being the municipal corporations law, two thousand dollars.	2,000 00
For the services of examiners in the examination of the accounts of the several county treasurers of the state, as required by section forty-three of chapter twenty-three of the laws of nineteen hundred and nine, being the executive law, three thousand dollars.	3,000 00
For temporary clerical services, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the comptroller for expenses necessarily incurred in the conduct of his office, including compensation of employees, examiners and experts, traveling and other expenses made necessary by new legislation, including the examination and supervision of private bankers, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00
Two hundred twenty dollars and sixty-six cents, being the unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for protecting and perfecting the state's title to lands, is hereby reappropriated for the same purpose. (re. \$220.66)	
For the comptroller, for furnishing portable steel filing cases for original tax returns, deeds, abstracts of title, books and records relating to corporation, taxes, land titles, taxes and tax sales, and for other furniture and necessary repairs in the various bureaus of the department, thirty-five thousand dollars, or so much thereof as may be necessary.	35,000 00
For steel equipment in the following departments of the comptroller's office:	
Bureau of canal affairs, three thousand eight hundred dollars, or so much thereof as may be necessary ;	3,800 00
transfer tax bureau, two thousand seven hundred dollars, or so much thereof as may be necessary ;	2,700 00
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printing board and part of finance bureau, five thousand dollars, or so much thereof as may be necessary; 5,000 00  
 for storage rooms, for comptroller's records, five thousand five hundred dollars, or so much thereof as may be necessary. 5,500 00

For repairing premises in the city of Kingston required by the State through the Harrington escheat, two hundred thirty dollars, or so much thereof as may be necessary. 230 00

#### TREASURER'S OFFICE.

Nine hundred thirty-four dollars and sixty-three cents, or so much thereof as may be necessary, being an unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for traveling expenses of the treasurer, is hereby reappropriated for the traveling expenses of the deputy treasurer and other employees of the department in the performance of their official duties. (re \$934.63)

For deficiency in appropriation for the purchase of books, blanks, binding and printing and other incidental office expenses, including rent and insurance, made necessary by the capitol fire, four thousand five hundred dollars, or so much thereof as may be necessary. 4,500 00

#### ATTORNEY-GENERAL.

For the expenses of his office, including furniture, books, binding, blanks, postage, express or freight upon letters, documents or other matter, including boxes or other covering therefor, telegraph, telephone and messenger service, traveling expenses of deputies and employees necessarily incurred in the business of the office, and other incidental expenses of the attorney-general in the conduct of his office, including temporary, clerical and stenographic service, fifteen thousand dollars, or so much thereof as may be necessary 15,000 00

For the payment of attorneys, counsel, special deputies, agents, and commissioners employed by him in pur-

suance of law, including compensation of witnesses, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For the payment of attorneys, counsel and deputies designated or employed in actions or proceedings brought brought in pursuance of the provisions of the executive law, twenty thousand dollars, or so much thereof as may be necessary; but no warrant shall be issued for such payments until the amounts claimed shall be certified, audited and allowed by the attorney-general and governor.	20,000 00
For the expense of investigating claims on behalf of or against the state, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For the employment of lawyers and abstract and title companies to examine titles to lands appropriated for barge canal purposes and other titles to property being purchased by the state and for the necessary expenses incident thereto, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For the compensation of accountants to examine the books and accounts of receivers as required by section two hundred and forty-nine of the general corporation law, and to render such other services, if any, as the attorney-general may deem necessary, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For the payment of county clerks' fees for making searches in connection with the examination of barge canal titles, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For the library in the office of the attorney-general and his New York bureau for continuing sets of law reports, the purchase of new books, book cabinets, holders and miscellaneous library supplies and any other purchases made necessary by the equipment for and the repair and completion of the library, ten thousand dollars, or so much thereof as may be necessary.	10,000 00



One thousand five hundred forty-five dollars and seventy-five cents, being the unexpended balance of the appropriation made by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for the payment to The Martin B. Brown Company for printing, is hereby appropriated for the attorney-general for the purpose of payment for printing of opinions, et cetera (re. \$1,545.75).

For Charles A. Dolson for a balance due him for services rendered and expenses incurred as special counsel for the people in the case of People of New York against George B. McClelland and William R. Hearst impleaded; under designation of William S. Jackson, attorney-general, ten thousand dollars.

10,000 00

#### CIVIL SERVICE COMMISSION.

For salaries of temporary employees and for other necessary office expenses of the civil service commission, two hundred dollars, or so much thereof as may be necessary.

200 00

For deficiency in appropriations for the actual and necessary traveling and other expenses of the commissioners, secretary, chief examiner or other employees of the commission in the performance of their official duty, one thousand dollars, or so much thereof as may be necessary.

1,000 00

#### LEGISLATIVE.

##### LEGISLATURE.

For the advances by the comptroller to the clerk of the assembly for the clergymen officiating as chaplains, to be paid at the rate of five dollars for each day of attendance; for deficiency in appropriations for such advances; for printing, stationery, supplies, file boards and record books; for preparation, proof reading and comparison of journals and financial reports; clerical and stenographic services; for engrossing resolutions; for printing and revising clerk's manual; for books and blanks; for care of bills, documents and library;

for law books and binding of books and records; for steel cases, furniture and appurtenances; for expenses receiving reports and printed documents, storing, addressing and forwarding the same; for extra clerical service; and for other contingent expenses, forty thousand dollars, or so much thereof as may be necessary.

40,000 00

For advances to the clerk of the assembly, fifteen thousand dollars, or so much thereof as may be necessary; for the purchase of books, pamphlets and documents, furniture, shelving, fittings and cases which are necessary to replace the library of the assembly destroyed by fire, and proper care of the same.

15,000 00

For deficiency in appropriation for the expenses of the legislative committees of nineteen hundred and ten, to be paid upon the certificate of the temporary president of the senate or the speaker of the assembly, respectively; for indexing the bills, journals and documents of the senate and assembly; for indexing the executive journals of the senate and for the preparation of indices to senate journals, bills and documents; for the preparation of session indices to senate and assembly bills, journals and documents; for indexing the executive journals of the senate and for preparation of supplementary indices to senate and assembly bills, journals and documents; for insurance, postage, express and transportation of letters, documents and other matter sent by express or freight, including boxes and covering for the same; for expenses of receiving, storing, addressing and forwarding reports and printed documents, including the rental of rooms for same; for printing and furnishing the legislative manual and clerk's manual; for law and reference books and publications for the senate and assembly library, and committees of the legislature; for legislative indices to senate and assembly bills, journals and documents; for extra clerical services and engrossing; for furniture, alteration and repairs of legislative rooms and for other contingent expenses of the legis-

lature, to be paid upon the certificate of the clerk of the senate or assembly, respectively, one hundred and forty thousand dollars, or so much thereof as may be necessary.	140,000 00
For the lieutenant-governor and the speaker of the assembly, for their actual and necessary traveling and other expenses in the performance of their duties upon the several boards of which they are members, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the lieutenant-governor, for extra stenographic and clerical services, one thousand two hundred fifty dollars, or so much thereof as may be necessary.	1,250 00
For the speaker of the assembly, for extra stenographic and clerical services, one thousand two hundred fifty dollars, or so much thereof as may be necessary.	1,250 00
For extra clerical services for the senate finance committee, to be paid upon the approval of the chairman of the senate finance committee, five hundred dollars, or so much thereof as may be necessary.	500 00
For the employment, if needed, prior to the legislative session of nineteen hundred and twelve, of persons in the legislative bill drafting department to assist in the preparation of proposed legislative bills, such persons to be designated and their compensation fixed by the governor and paid on his certificate, thirty-five hundred dollars, or so much thereof as may be necessary.	3,500 00
For Odell R. Blair, for the preparation of the index to the report of the joint committee of the senate and assembly, appointed to investigate telephone and telegraph companies, five hundred dollars, or so much thereof as may be necessary, to be paid on the audit of the comptroller and the chairman and vice-chairman of said committee.	500 00

#### PRINTING.

- For legislative and department printing:  
 For printing fifteen hundred additional copies of the final report of the committee appointed to investigate

corrupt practices, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number two hundred and thirty, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number one hundred and fifty, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing one thousand additional copies of assembly bill number one hundred and twenty-one, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing one thousand additional copies of senate bill number one hundred and seventy, ordered by resolution of the senate, February tenth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number two hundred and forty-four, ordered by resolution of the assembly, February ninth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number two hundred and five, ordered by resolution of the assembly, February ninth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number one hundred and ninety-four, ordered by resolution of the assembly, February ninth, nineteen hundred and eleven; for printing eight hundred additional copies of senate bill number two hundred and forty-six, ordered by resolution of the senate, February tenth, nineteen hundred and eleven; for printing five hundred additional copies of senate bill number one hundred and eighty-two, ordered by resolution of the senate, February ninth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number eighteen, ordered by resolution of the assembly, February twenty-second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number nineteen, ordered by

resolution of the assembly, February twenty-second, nineteen hundred and eleven; for printing five hundred additional copies of senate bill number two hundred and twenty-six, ordered by resolution of the senate, February twenty-second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bills number four hundred, four hundred and one, four hundred and two, four hundred and three, four hundred and four, four hundred and five, four hundred and six, four hundred and seven, four hundred and eight, and four hundred and nine, ordered by resolution of the assembly, February twenty-third, nineteen hundred and eleven; for printing five hundred additional copies of assembly bills numbers four hundred and twenty-one, four hundred and twenty-two, four hundred and twenty-three, four hundred and twenty-four, four hundred and twenty-five and four hundred and twenty-six, ordered by resolution of the assembly, February twenty-third, nineteen hundred and eleven; for printing five hundred additional copies of all bills of the assembly, as directed by the clerk of the assembly, ordered by resolution of the assembly, March first, nineteen hundred and eleven; for printing five hundred additional copies of senate bill number four hundred and thirty-four, ordered by resolution of the senate, March fourteenth, nineteen hundred and eleven; for printing three thousand additional copies of senate bill number four hundred and sixty-four, ordered by resolution of the senate, March fourteenth, nineteen hundred and eleven; for printing eighteen hundred additional copies of the final report of the committee appointed to investigate corrupt practices, ordered by resolution of the senate, March fourteenth, nineteen hundred and eleven; for printing fifteen hundred additional copies of assembly bill number fourteen hundred and ninety-three, ordered by resolution of the assembly, April eighteenth, nineteen hundred and eleven; for printing and bind-

ing "New York in the War of the Rebellion," ordered by chapter four hundred and thirty-three, laws of nineteen hundred and nine; for printing one thousand additional copies of the preliminary report of the barge canal terminal commission, for the senate; for printing copies of engrossed bills for the state library to replace those destroyed by fire, as ordered by the clerk of the assembly; for printing additional copies of assembly bills to replace those destroyed by fire, as ordered by the clerk of the assembly; for printing fifteen hundred additional copies of assembly bill number fourteen hundred and sixty-one, ordered by resolution of the assembly, April twenty-fourth, nineteen hundred and eleven; for printing fifteen hundred additional copies of assembly bill number seven hundred and sixty-four, ordered by resolution of the assembly, April twenty-fourth, nineteen hundred and eleven; for printing fifteen hundred additional copies of senate bill number ten hundred and five, and fifteen hundred additional copies of senate bill number twelve hundred and twenty-nine, ordered by resolution of the senate, May eighth, nineteen hundred and eleven; for printing five thousand additional copies of the second report and minutes of evidence of the commission on employers' liability, ordered by concurrent resolution, May twelfth, nineteen hundred and eleven; for printing five thousand additional copies of the third report and minutes of evidence of the commission on employers' liability, ordered by concurrent resolution, May twelfth, nineteen hundred and eleven; for printing one thousand additional copies of assembly bill number fourteen hundred and eighty-seven, ordered by resolution of the assembly, May fourth, nineteen hundred and eleven; for printing one thousand additional copies of assembly bill number ten hundred and twenty-nine, ordered by resolution of the assembly, May fourth, nineteen hundred and eleven; for printing five hundred additional copies

of the annual report of the state training school for girls at Hudson, ordered by resolution of the assembly, May fourth, nineteen hundred and eleven; for printing two hundred additional copies of senate bill number eleven hundred, ordered by resolution of the senate, May eighth, nineteen hundred and eleven; and for supplying deficiencies in appropriations therefor, seventy-five thousand dollars, or so much thereof as may be necessary; all of which is hereby legalized and confirmed and shall have the same force and effect as if the work therein ordered had been ordered by statute, and shall be paid for at the amounts audited by the comptroller, in accordance with the contract rates fixed therefor in the contracts for legislative and department printing for the years in which such printing and binding was done, to be paid only upon the filing of the proper receipts in full for said items

75,000 00

### JUDICIAL.

#### COURT OF APPEALS.

For deficiency in salaries of the clerks of judges of the court of appeals to September thirtieth, nineteen hundred and eleven, appointed pursuant to section fifty-eight of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, one thousand two hundred six dollars and sixty-five cents, or so much thereof as may be necessary.

1,206 65

For deficiency in appropriation for expenses of offices for judges of the court of appeals, incurred pursuant to section fifty-five of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, three hundred fifty-eight dollars and thirty-four cents, or so much thereof as may be necessary.

358 34

For necessary expenses of the clerks of the judges of the court of appeals, one thousand dollars, or so much thereof as may be necessary, to be paid upon vouchers approved by the judge in whose service such expenses are incurred.

1,000 00

## SUPREME COURT.

For compensation of confidential clerks to resident trial justices of the supreme court in the fifth judicial district, one thousand dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to subdivision four of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.	1,000 00
For compensation of confidential clerks to resident trial justices of the supreme court in the eighth judicial district, one thousand four hundred dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to subdivision eight of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.	1,400 00
For deficiency in compensation of two confidential clerks, appointed by the justices of the appellate division of the supreme court in the second judicial department, four thousand dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to the provisions of section two hundred and seventy-two of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.	4,000 00
For Frances Spencer, widow of the late Edgar A. Spencer, justice of the supreme court of the fourth judicial district, who died May fifth, nineteen hundred and eleven, four thousand one hundred sixty-six dollars and sixty-seven cents, being the amount of the annual compensation unpaid of said justice for the calendar year nineteen hundred and eleven, which would have been earned by him had he continued to live until the close of that year and had served as such justice.	4,166 67

## LIBRARIES.

For libraries of the judges of the court of appeals, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
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For deficiency in appropriation for the court of appeals library in Syracuse, one thousand one hundred fifty dollars, or so much thereof as may be necessary.	1,150 00
For deficiency in the appropriation for the supreme court law library of the eighth district, located at Buffalo, and for rebinding the books, two thousand dollars, or so much thereof as may be necessary, to be paid upon the certificate of a majority of the trustees of said library.	2,000 00
For deficiency in salary of the librarian of the supreme court law library of the eighth district, located at Buffalo, from April fifth to September thirtieth, nineteen hundred and eleven, one thousand two hundred twenty-two dollars and nine cents, to be refunded to the treasury pursuant to the provisions of chapter fifty-eight, laws of nineteen hundred and eleven.	1,222 09
For deficiency in the appropriation of the law library at Newburg, in the ninth judicial district, and for the purchase of reports, digest and text-books, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00

## COURT OF CLAIMS.

For deficiency in salary of one employee in the fifth grade from February first to September thirtieth, nineteen hundred and eleven, one hundred twenty dollars.	120 00
For office rent, furniture, blanks, books, stationery and other necessary office supplies, two thousand one hundred dollars, or so much thereof as may be necessary.	2,100 00
For expenses and disbursements paid and to be incurred by the clerks, stenographers and marshal outside the city of Albany, seven hundred fifty dollars, or so much thereof as may be necessary.	750 00
For services of extra stenographers, printing, stationery, telephone, messages, insurance and other incidental expenses, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the judges of the court of claims for their actual, necessary traveling and other expenses and disburse-	

ments incurred by them in the discharge of their official duties elsewhere than in Albany, from June twenty-fifth, nineteen hundred and ten, to September thirtieth, nineteen hundred and eleven, in accordance with the provisions of chapter six hundred and eighty-four of the laws of nineteen hundred and ten, five thousand dollars, or so much thereof as may be necessary.

5,000 00

### COMMISSION ON INFERIOR COURTS.

For deficiency for expenses for the commission to inquire into inferior criminal courts in cities of the first class, appointed pursuant to chapter two hundred and eleven of the laws of nineteen hundred and eight, six thousand dollars, or so much thereof as may be necessary, payable on the approval of the chairman of the commission and the audit of the comptroller.

6,000 00

### REGULATIVE.

#### STATE DEPARTMENT OF EXCISE.

For expenses incurred in the enforcement of section thirty-three, chapter thirty-nine, laws of nineteen hundred and nine, being the liquor tax law, including attorney's fees and expenses, expert services, storage, transportation and destruction of liquors, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

For the Marine National Bank of Buffalo, New York, for interest erroneously paid on deposits of excise moneys, one thousand ninety dollars and nineteen cents, or so much thereof as may be necessary.

1,090 19

#### HEALTH DEPARTMENT.

Four hundred forty-eight dollars and thirty-four cents (re. \$448.34), being the unexpended balance of appropriations made by chapter four hundred and thirty-two and chapter four hundred and thirty-three, laws of nineteen hundred and nine, and eight hundred

forty-six dollars and sixty-four cents (re. \$846.64), being the unexpended balance of appropriations made by chapter five hundred and twelve, laws of nineteen hundred and ten, for services of employees, are hereby reappropriated for additional or temporary services in said office, and the further sum of four hundred thirty-seven dollars and fifty cents is hereby appropriated for the same purpose.

437 50

For suppressing epidemics of smallpox and the control and prevention of other infectious and contagious diseases in the several municipalities of the state, twelve thousand five hundred dollars, or so much thereof as may be necessary.

12,500 00

For the control and prevention of ophthalmia neonatorum and the prevention of blindness, two thousand five hundred dollars, or so much thereof as may be necessary.

2,500 00

For the printing of the marriage licenses and records books for town, city and county clerks, and express charges for distribution of same, ordered pursuant to chapter seven hundred and forty-two, laws of nineteen hundred and seven, and article three, chapter nineteen, laws of nineteen hundred and nine, being the domestic relations law, two thousand dollars, or so much thereof as may be necessary.

2,000 00

For conducting, maintaining and transporting the traveling exhibits of tuberculosis for the education of the public and the giving of lectures and the distribution of circulars and pamphlets in connection therewith, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

For enforcing the provisions of chapter three hundred and thirty-five of the laws of nineteen hundred and eleven, relative to cold storage, fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated as follows:

50,000 00

For salaries of inspectors, and traveling expenses, thirty thousand dollars;

for clerks, stenographers, printing of books and forms, et cetera, ten thousand dollars;  
for expenses of constructing an experimental cold storage plant, salaries of bacteriologists and investigations into the effect of cold storage on foods, ten thousand dollars.

#### DEPARTMENT OF LABOR.

Three thousand five hundred dollars, being a part of the unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for the salaries of assistant commissioner of labor, deputies, inspectors, clerks, special agents and statisticians, is hereby reappropriated as follows:

For printing, messages and other incidental office expenses, one thousand dollars, or so much thereof as may be necessary (re. \$1,000); for traveling expenses of officials and employees of the department in the performance of their official duties, under the direction of the commission, two thousand dollars, or so much thereof as may be necessary (re. \$2,000); for temporary clerical services, five hundred dollars, or so much thereof as may be necessary (re. \$500).

Eight hundred sixteen dollars and four cents, being the unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for the purchase of reports and materials for the bulletins and annual reports of the department, is hereby reappropriated for the purchase of adding machines. (re. \$816.04)

For the salary of one tunnel inspector from August first to September thirtieth, nineteen hundred and eleven, two hundred fifty dollars.

250 00

## STATE SUPERINTENDENT OF ELECTIONS.

## FOR THE METROPOLITAN ELECTIONS DISTRICT.

For the state superintendent of elections, for office expenses existing or created during the fiscal year nineteen hundred and ten and not provided for by the appropriation for that year, and in carrying out the provisions of the law relating to the metropolitan elections district, five thousand dollars, or so much thereof as may be necessary.

5,000 00

## PUBLIC SERVICE COMMISSION, FIRST DISTRICT.

For the abolition of grade crossings within the jurisdiction of the public service commission, first district, pursuant to chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven and acts amendatory thereof, two hundred and fifty thousand dollars, or so much thereof as may be necessary.

250,000 00

## PUBLIC SERVICE COMMISSION, SECOND DISTRICT.

Ten thousand dollars, or so much thereof as may be necessary, being an unexpended balance of appropriations made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, chapter four hundred and thirty-three of the laws of nineteen hundred and nine and chapter five hundred and thirteen of the laws of nineteen hundred and ten, for salaries of additional employees, is hereby reappropriated as follows:

For salaries of additional employees, five thousand dollars (re. \$5,000);

for office expenses, five thousand dollars, or so much thereof as may be necessary (re. \$5,000);

and the further sum of three thousand seven hundred seventy-two dollars and thirty-two cents, being an unexpended balance of an appropriation for salaries of

employees specifically mentioned and of employees according to grade, made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, is hereby reappropriated for office expenses (re. \$3,772.32).

Four hundred and twenty-three thousand six hundred forty-seven dollars and forty-six cents, being the unexpended balance of an appropriation made for the abolition of grade crossings within the jurisdiction of the public service commission, second district, by chapter four hundred and thirty-three of the laws of nineteen hundred and nine, is hereby reappropriated for the same purpose (re. \$423,647.46).

For the abolition of grade crossings within the jurisdiction of the public service commission, second district, pursuant to chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven and acts amendatory thereof, four hundred thousand dollars, or so much thereof as may be necessary.

400,000 00

#### STATE BOARD OF TAX COMMISSIONERS.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight including boxes or covering for same, temporary employees and other incidental and necessary office expenses, including rent, eight thousand eight hundred fifty dollars, or so much thereof as may be necessary.

8,850 00

For deficiency in salaries of special agents, two thousand dollars,

2,000 00

#### HEALTH OFFICER, PORT OF NEW YORK.

For contingent expenses of the health officer of the port of New York, as provided in section one hundred and forty-four of chapter four hundred and twenty-five of the laws of nineteen hundred and ten, fifty thousand dollars, or so much thereof as may be necessary.

50,000 00

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## DEPARTMENT OF WEIGHTS AND MEASURES.

For deficiency in the actual necessary traveling expenses incurred in the performance of their official duties by the superintendent and inspectors, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
For furniture, books, stationery, messages and other office and incidental expenses, three hundred dollars, or so much thereof as may be necessary.	300 00
For the salary of the second deputy superintendent of weights and measures from June first, nineteen hundred and eleven, to October first, nineteen hundred and eleven, five hundred dollars, or so much thereof as may be necessary.	500 00

## EDUCATIONAL.

## DEPARTMENT OF EDUCATION.

For the salaries of the supervisor of public records and the clerks in his office from the date of their respective appointments to September thirtieth, nineteen hundred and eleven, as follows:	
Supervisor, one thousand three hundred dollars;	1,300 00
sixth grade, one employee, three hundred fifty dollars;	350 00
second grade, one employee, one hundred eighty dollars.	180 00
For traveling expenses, postage, stationery, et cetera, three hundred dollars,	300 00
Fifteen thousand dollars, or so much thereof as may be necessary, being the unexpended balance of an appropriation made by chapter five hundred and thirteen of the laws of nineteen hundred and ten, for improvements, repairs and betterments of the Buffalo State Normal School, so as to place the same in a safe and sanitary condition, is hereby reappropriated for the payment of the cost of moving the present buildings of such school, and for grading the grounds, which will be made necessary by the construction of the New Buffalo Normal School. (re. \$15,000.00)	

For repairs, renewals and betterments of buildings, equipment, fixtures, furniture and such additional accommodations in the state normal schools as may be necessary, sixty thousand dollars, or so much thereof as may be necessary.	60,000 00
For repairs and improvements to school buildings and the purchase of necessary supplies for the Indian schools on the Allegany, Cattaraugus, Onondaga, Tonawanda, Tuscarora, Saint Regis, Shinnecock and Poospatuck Indian reservations, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For the salary of the chief archivist, state library, from May first, nineteen hundred and eleven, to September thirtieth, nineteen hundred and eleven, pursuant to chapter one hundred and seventy-seven, laws of nineteen hundred and ten, one thousand two hundred fifty dollars.	1,250 00
For deficiency in the appropriation for common schools, one hundred seventeen thousand dollars, or so much thereof as may be necessary, to be apportioned by the commissioner of education in the same manner as that prescribed for the apportionment of moneys appropriated to common schools by chapter four hundred and thirty-two, laws of nineteen hundred and nine.	117,000 00
For medical examinations, payable only from fees collected pursuant to statute for such examinations, sixteen thousand eight hundred fifty dollars (\$16,850.00), or so much thereof as may be necessary, to be expended as follows:	
For expenses of medical examinations, including postage, express, parchment for licenses, printing, engraving, supplies, office expenses of secretary, traveling expenses of examiners, rooms for holding examinations, and services of persons temporarily employed to conduct such examinations, and for expenses of hearings, as specified in article eight, chapter forty-nine, laws of nineteen hundred and	



nine, being the public health law, five thousand eight hundred fifty dollars, or so much thereof as may be necessary ;	5,850 00
for apportionment to the state board of medical examiners, seven thousand dollars, to be divided pro rata according to the number of candidates whose answer papers have been marked by each ;	7,000 00
for the salary of the secretary of the state board of medical examiners for the year beginning June first, nineteen hundred and eleven, pursuant to article eight, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, four thousand dollars.	4,000 00
For expenses of dental examinations, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, and for the payment of the surplus to the state dental society, as provided in article nine, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, four thousand four hundred dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations.	4,400 00
For expenses of the veterinary examinations, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, one hundred twenty dollars, or so much thereof as may be necessary.	120 00
For apportionment on the basis provided in article ten, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, one hundred ninety dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations.	190 00
For expenses of examinations of certified public accountants pursuant to article eight, chapter twenty-	

five, laws of nineteen hundred and nine, being the general business law, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, two thousand dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations.

2,000 00

For expenses of examination of registered nurses, pursuant to article twelve, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, eight thousand nine hundred dollars (\$8,900.00), or so much thereof as may be necessary, payable only from fees collected for such examinations, to be expended as follows:

For salary of inspector of nurse training schools, one thousand eight hundred dollars;

1,800 00

for expenses of nurse training examinations, including postage, express, parchment for certificates, printing, engraving, supplies, traveling expenses of examiners and inspectors, rooms for holding examinations and services of persons employed temporarily to conduct such examinations, seven thousand one hundred dollars, or so much thereof as may be necessary.

7,100 00

For expenses of examinations of the state board of examiners in optometry, pursuant to article fifteen, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, ninety-four dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations; and three thousand two hundred seventy-four dollars and eighty-eight cents, being the unexpended balance of appropriation for expenses of examinations

94 00

of the state board of examiners in optometry made by chapter four hundred and thirty-three, laws of nineteen hundred and nine, is hereby reappropriated for the purpose mentioned in said act. (re. \$3,274.88)

For expenses of the state board of pharmacy, including salaries of employees, postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations, and services of persons temporarily employed to conduct such examinations, fifteen thousand dollars, or so much thereof as may be necessary, payable only from fees, fines, penalties, and other moneys derived from the operation of the pharmacy act.

15,000 00

For the payment of the expenses of moving into temporary offices and of moving from such temporary offices to the educational building, and for the cost of equipping, furnishing and rental of such temporary offices, and for the purchase of supplies, furniture and other necessary materials and the printing of blanks and documents to replace those destroyed or damaged by the capitol fire, thirty-five thousand dollars, or so much thereof as may be necessary.

35,000 00

For the payment of annuities to teachers in the several state normal schools who have been retired from services under the provisions of article forty-three-a of the education law, four thousand nine hundred dollars, or so much thereof as may be necessary.

4,900 00

For the burial expenses of the late Samuel J. Abbott, the night watchman of the state library, four hundred eighty-two dollars and fifty-eight cents, or so much thereof as may be necessary.

482 58

For state aid for blind pupils in certain institutions, to be paid for the purposes and in the manner provided by section nine hundred and twenty-six of the education law, three thousand six hundred dollars, or so much thereof as may be necessary.

3,600 00

## ALFRED UNIVERSITY.

For addition to building, new kilns, heating plant and other equipment, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
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## DEAF AND DUMB.

For deficiency in appropriation for the support and instruction of deaf-mutes at the Institute for Improved Institution of Deaf-Mutes, in New York city, made by chapter five hundred and twelve of the laws of nineteen hundred and ten, eight hundred five dollars and fifty-four cents, or so much thereof as may be necessary.	805 54
For the Central New York Institution for Deaf-Mutes at Rome, for	
completing heating plant, one thousand five hundred dollars, or so much thereof as may be necessary;	1,500 00
cement walks, one thousand five hundred dollars, or so much thereof as may be necessary;	1,500 00
painting and repairs interior and exterior of three main buildings, one thousand five hundred dollars, or so much thereof as may be necessary;	1,500 00
renewing floors and ceilings of dormitories, and storage room repairs in main building, one thousand one hundred dollars, or so much thereof as may be necessary;	1,100 00
vegetable cooker and accessories, two hundred fifty dollars, or so much thereof as may be necessary;	250 00
steel ceilings and painting in laundry, one hundred fifty dollars, or so much thereof as may be necessary;	150 00
finishing and painting manual training building, five hundred dollars, or so much thereof as may be necessary.	500 00

## HUDSON-FULTON CELEBRATION COMMISSION.

For the Hudson-Fulton celebration commission, two thousand seven hundred fifty dollars, or so much

thereof as may be necessary, for the purpose of paying express charges or postage on its allowance of copies of its fourth annual report to the legislature, for printing and binding its official minutes and for incidental expenses. Such money shall be paid by the treasurer on the warrant of the comptroller issued upon requisition signed by the president or acting secretary of the commission, accompanied by a statement of the expenses for the payment of which the money so drawn is to be applied.

2,750 00

### **AGRICULTURAL.**

#### **DEPARTMENT OF AGRICULTURE.**

For apportionment to agricultural fairs under the provisions of section three hundred and ten, chapter nine, laws of nineteen hundred and nine, being the agricultural law, two hundred fifty thousand dollars, or so much thereof as may be necessary.

250,000 00

For collection and maintenance of a food exhibit, one thousand dollars, or so much thereof as may be necessary.

1,000 00

For maintenance and extension of farmers' institutes held under the auspices of the commissioner of agriculture, and for holding farmers' educational meetings and demonstrations in co-operation with the state college of agriculture and other institutions and organizations; including inspections of and recommendations concerning farms connected with state institutions as provided in the agricultural law, six thousand sixty-four dollars and forty-three cents, which amount is hereby reappropriated from the unexpended balance of the appropriation for salaries made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, or so much thereof as may be necessary. (re. \$6,064.43)

For enforcing the provisions of article five, chapter nine, laws of nineteen hundred and nine, being the agricultural law, one hundred twenty thousand

dollars, or so much thereof as may be necessary; provided, however, that not more than eighty-five thousand dollars of this amount shall be used for the payment of indemnities for cattle destroyed on account of tuberculosis under the order of the commissioner of agriculture in accordance with the provisions of the agricultural law; and not more than thirty-five thousand dollars of this amount shall be used for the payment of indemnities for animals destroyed on account of glanders under the order of the commissioner of agriculture in accordance with the provisions of the agricultural law.

120,000 00

For enforcing the provisions of article three, chapter nine, laws of nineteen hundred and nine, being the agricultural law, relating to dairy products and other matters, three thousand dollars, or so much thereof as may be necessary.

3,000 00

For the commissioner of agriculture, to reimburse Hugh C. Troy, chemist in the department of agriculture, for money erroneously paid into the state treasury, fifty dollars, or so much thereof as may be necessary.

50 00

For the salary of chief of butter substitutes, from August first to September thirtieth, nineteen hundred and eleven, four hundred sixteen dollars and sixty-six cents.

416 66

#### AGRICULTURAL EXPERIMENT STATION AT GENEVA.

For expenses in investigating the condition of grape culture in Chautauqua county, seven thousand five hundred dollars, or so much thereof as may be necessary.

7,500 00

For purchase of additional land for experimental purposes, fifteen thousand five hundred dollars, or so much thereof as may be necessary.

15,500 00

#### ALFRED UNIVERSITY.

For maintenance, including any deficit for nineteen hundred and ten and nineteen hundred and eleven,

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four thousand three hundred thirteen dollars, payable from the moneys paid by the school into the treasury pursuant to the provisions of section thirty-seven of chapter fifty-eight of the laws of nineteen hundred and nine, as amended by chapter four hundred and forty of the laws of nineteen hundred and ten, being the state finance law.

4,313 00

For buildings and structures and equipment of same, drainage, fruit trees, farm machinery, live stock and poultry, eight thousand one hundred fifty dollars, or so much thereof as may be necessary.

8,150 00

### CORNELL UNIVERSITY.

For equipment of the State Veterinary College at Cornell University, three thousand dollars, or so much thereof as may be necessary.

3,000 00

For the State College of Agriculture at Cornell University, for

greenhouse, twenty thousand dollars, or so much thereof as may be necessary;

20,000 00

additions, repairs and betterments, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

For extension work in agriculture, three months, from July first to September thirtieth, nineteen hundred and eleven, three thousand dollars, or so much thereof as may be necessary.

3,000 00

For summer school in agriculture for school teachers, four thousand dollars, or so much thereof as may be necessary.

4,000 00

For providing instruction in physics, chemistry, et cetera, to increased number of students in college of agriculture, twenty thousand dollars, or so much thereof as may be necessary.

20,000 00

For the promotion of extension work on farms and with farmers of the state, fifty thousand dollars, or so much thereof as may be necessary.

50,000 00

## SAINT LAWRENCE UNIVERSITY.

For buildings and structures, sidewalks, and grading, sixteen thousand dollars, or so much thereof as may be necessary.	16,000 00
For the reimbursement of the Saint Lawrence University for payments made by it for additional equipment of the building used by the school, one thousand six hundred sixty-six dollars and seventy-six cents.	1,666 76

## MORRISVILLE SCHOOL OF AGRICULTURE.

For heating or lighting plant, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For repairs to buildings, three thousand five hundred dollars.	3,500 00
For stable equipment, poultry and swine houses, finishing barn, building roads, water supply, drainage, fences and landscape work, eleven thousand five hundred dollars, or so much thereof as may be necessary.	11,500 00
For farm equipment and live stock, four thousand dollars, or so much thereof as may be necessary.	4,000 00

## STATE FAIR COMMISSION.

For premiums, forty-two thousand dollars, or so much thereof as may be necessary.	42,000 00
For printing and advertising, fifteen thousand dollars, or so much thereof as may be necessary.	15,000 00
For exhibits of state institutions, four thousand dollars, or so much thereof as may be necessary.	4,000 00
For fencing fair grounds, two thousand nine hundred seventy-six dollars and forty cents, or so much thereof as may be necessary.	2,976 40
For improvements in the state institutions and grange building, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For survey lines, grades and test pits, two hundred seventy-three dollars and ninety-nine cents, or so much thereof as may be necessary.	273 99



**DEFENSIVE.****NATIONAL GUARD.**

For deficiency in appropriation, for allowances to headquarters of organizations of the national guard, nine thousand seven hundred eighteen dollars and sixty-six cents, or so much thereof as may be necessary.	9,718 00
For deficiency in appropriation made by chapter five hundred and twelve of the laws of nineteen hundred and ten, for allowance to officers and organizations of the national guard, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00
For allowances to officers to assist in uniforming and equipping themselves and for organizations for the purpose of defraying necessary military expenses, fifteen thousand dollars, or so much thereof as may be necessary.	15,000 00
For actual and necessary expenses of the national guard and the office of the adjutant-general, forty-five thousand dollars, or so much thereof as may be necessary.	45,000 00
For completing and binding the personal records of the volunteers from this state in the war of the rebellion and for printing and binding the same in book form, twelve thousand dollars, or so much thereof as may be necessary.	12,000 00
For clerical services and expenses in connection with disbursements of refund by United States to volunteers of the Spanish war, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For the armory commission for repairs and improvements and betterments of the State arsenal, armories, camp grounds and rifle ranges throughout the state, and for necessary office and traveling expenses of the commission, eighty-five thousand dollars, or so much thereof as may be necessary.	85,000 00
For securing additional land for the construction of pistol ranges, the erection of backstops, clearing of lands and necessary improvements at the Blauvelt rifle range, thirty thousand dollars, or so much thereof as may be necessary.	30,000 00

For Adrian Sizer for services and necessary traveling expenses in prosecuting claims of the state of New York against the United States government, eleven thousand seven hundred sixty-seven dollars and twenty cents, or so much thereof as may be necessary.	11,767 20
For Fred J. Jones, to supply deficiency in the appropriation provided by chapter six hundred and fifty-four of the laws of eighteen hundred and ninety-nine, to be paid upon filing of the proper vouchers in accordance with the provisions of such chapter, three hundred fifty-seven dollars, or so much thereof as may be necessary.	357 00
For rental of temporary offices of the adjutant-general at number twenty-five Washington avenue for the month of April, nineteen hundred and eleven, three hundred dollars.	300 00
For rental of permanent offices of the adjutant-general at number one hundred and seventy-six State street, leased for one year from May first, nineteen hundred and eleven, caused by removal from the capitol and turning over of rooms numbers two hundred and eleven to two hundred and fifteen to the attorney-general by the trustees of public buildings, two thousand eight hundred dollars, or so much thereof as may be necessary.	2,800 00
For rental of permanent headquarters, division national guard, at number one hundred and seventy-four State street, leased for one year from May first, nineteen hundred and eleven, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
For lighting of the above premises and cartage expense in connection with moving, five hundred dollars, or so much thereof as may be necessary.	500 00
For the pay, subsistence, transportation and other expenses of troops at the capitol after the fire, eight thousand seven hundred dollars, or so much thereof as may be necessary.	8,700 00

For deficiency in appropriation made by chapter five hundred and twelve, laws of nineteen hundred and ten, payment of pensions to members of the National Guard and Naval Militia and their care when injured or disabled in the service, and for the expense of examination of claims, three thousand seven hundred and fifty dollars, or so much thereof as may be necessary.

3,750 00

#### NAVAL MILITIA.

For the necessary expenses of the summer cruise of the naval militia, five thousand dollars, or so much thereof as may be necessary.

5,000 00

#### GRAND ARMY OF THE REPUBLIC.

For the department of New York, Grand Army of the Republic, for incidental office expenses, including postage, printing, telegraph and telephone charges, two thousand five hundred dollars, or so much thereof as may be necessary.

2,500 00

#### PENAL.

#### COMMISSION ON NEW PRISONS.

For the salaries of the:

commissioners, four thousand dollars, or so much thereof as may be necessary;

4,000 00

secretary, seven hundred and fifty dollars;

750 00

clerks and stenographers, two thousand dollars;

2,000 00

laborers and farm expenses, two thousand five hundred dollars, or so much thereof as may be necessary;

2,500 00

repairs to buildings and fences, five hundred dollars, or so much thereof as may be necessary.

500 00

For traveling and allowed expenses of the commission and employees, two thousand dollars, or so much thereof as may be necessary.

2,000 00

For furniture, books, blanks, stationery, printing, messages, postage and transportation of letters, official documents and other matter sent by express or freight,

including boxes or covering for same, one thousand dollars, or so much thereof as may be necessary.	1,000 00
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### STATE PRISON COMMISSION.

For expenses of sending delegates to the next national congress at Omaha, three hundred dollars, or so much thereof as may be necessary.	300 00
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For expert advice on plans, specifications, sanitation, ventilation and other special expenses relating to plans for penal institutions, five hundred dollars, or so much thereof as may be necessary.	500 00
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### PRISON DEPARTMENT.

For the superintendent of state prisons, for deficiency in appropriation for furniture, books, blanks, printing, stationary, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, and other necessary and incidental office expenses, five hundred dollars, or so much thereof as may be necessary.	500 00
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For securing additional instruction in the several state prisons, four thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the superintendent of state prisons.	4,000 00
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For providing current literature for the several state prisons, two thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the superintendent of state prisons.	2,000 00
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For assistant physician for Sing Sing prison, one thousand five hundred dollars.	1,500 00
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For Matteawan State Hospital for Insane Criminals, for deficiency in appropriation for support and maintenance, eleven thousand dollars.	11,000 00
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For electric wiring at the Matteawan State Hospital, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
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For salary of farm superintendent at Great Meadow prison, one thousand eight hundred dollars.	1,800 00
For Lewis E. Griffith, for counsel fees and expenses necessarily incurred by him in connection with certain charge of irregularities on the part of the superintendent of state prisons in the adoption of plans for the new state prison at Bear Mountain, which charges were referred by the governor to Edward Sandford for investigation, two thousand five hundred dollars, or so much thereof as may be necessary, which shall be payable on the audit and certificate of the attorney-general.	2,500 00
For the payment of expenses incurred and paid by the county of Clinton in the criminal proceedings conducted in the said county against certain inmates of Clinton prison, pursuant to the provisions of sections sixteen and seventeen of the prison law, eighty-one dollars, or so much thereof as may be necessary.	81 00

#### PRISON SCHOOLS.

For the salaries of three head teachers, six thousand dollars.	6,000 00
For school and library books, one thousand two hundred dollars.	1,200 00
For school apparatus and supplies, one thousand two hundred dollars.	1,200 00
For salary of one head teacher at State Prison for Women, seven hundred and fifty dollars.	750 00

#### MAINTENANCE OF CONVICTS.

For maintenance of convicts sentenced to penitentiaries, as provided by section three hundred and twenty-four of chapter forty-seven of the laws of nineteen hundred and nine, being the prison law, and to convicts sentenced under sections twenty-three hundred and seventy and twenty-three hundred and seventy-one of chapter eighty-eight of the laws of nineteen hundred and nine, being the penal law, forty thousand dollars, or so much thereof as may be necessary.	40,000 00
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**CURATIVE.****STATE COMMISSION IN LUNACY.**

For improvement of water supply at the Hudson River "State Hospital, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00
For improvement of water supply at the Rochester State Hospital, one thousand one hundred eighty-five dollars, or so much thereof as may be necessary.	1,185 00
For reimbursing the maintenance fund of the Utica State Hospital, seventy-two thousand six hundred forty dollars and thirty cents, being the amount advanced therefrom to maintain the manufacturing departments at the Utica State Hospital for the period between April first, nineteen hundred and ten, and March thirty-first, nineteen hundred and eleven, is hereby appropriated from the receipts of the manufacturing departments of the same hospital paid into the state treasury by reason of section thirty-seven of chapter fifty-eight of the laws of nineteen hundred and nine, being the state finance law.	72,640 30
For reimbursing the maintenance fund of the Rochester State Hospital, thirty thousand eight hundred seventeen dollars and sixteen cents, being the amount advanced therefrom to maintain the manufacturing departments at the Rochester State Hospital for the period between April first, nineteen hundred and ten, and March thirty-first, nineteen hundred and eleven, is hereby appropriated from the receipts of the manufacturing departments of the same hospital paid into the state treasury by reason of section thirty-seven of chapter fifty-eight of the laws of nineteen hundred and nine, being the state finance law.	30,817 16
Five hundred ten thousand dollars, being the board moneys and miscellaneous receipts of the state hospitals during the year ending September thirtieth, nineteen hundred and eleven, paid into the state treasury pursuant to section thirty-seven of chapter fifty-	

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eight of the laws of nineteen hundred and nine, being the state finance law, is hereby appropriated and made available to supply deficiencies in the maintenance account of the state hospitals during the year ending September thirtieth, nineteen hundred and eleven.	510,000 00
For reimbursing state hospital stewards for expenses incurred by them while acting as assistant treasurers in payment of premiums on bonds required by the state comptroller during the year ending September thirtieth, nineteen hundred and eleven, three hundred sixty-seven dollars and fifty cents.	367 50
For the expenses of a campaign of education looking to the prevention of insanity, to be expended under the direction of the state commission in lunacy, two thousand five hundred dollars.	2,500 00
One thousand dollars, or so much thereof as may be necessary, is hereby appropriated to prevent overcrowding by transfers between hospitals for the insane, to be expended under the direction of the state commission in lunacy.	1,000 00
One thousand dollars, being the estimated amount necessary to supplement the original appropriation of three thousand dollars made by chapter five hundred and seven of the laws of nineteen hundred and ten for installation of underground feeder cables at the Buffalo State Hospital, is hereby appropriated.	1,000 00
Six hundred dollars, or so much thereof as may be necessary, representing the estimated deficiency in the appropriation made by chapter five hundred and twelve of the laws of nineteen hundred and ten for office expenses, including rent, telephone, stationery and postage, in the office of the state board of alienists is hereby appropriated.	600 00
For the state commission in lunacy, for the services of expert inspectors of buildings and repairs, for engineering and supplies, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

The unexpended balances of former appropriations are hereby reappropriated for the same purposes, as follows:

For the state commission in lunacy by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for extraordinary repairs and emergencies at the state hospitals, twelve thousand three hundred forty-five dollars and fifty-three cents (re. \$12,345.53).

For the Utica State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for barn and silos, one thousand one hundred eleven dollars and seventy-eight cents (re. \$1,111.78). 111.78).

For the Willard State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for new engine and dynamo, four hundred eighty-five dollars and fifty-seven cents. (re. \$485.57).

For the Hudson River State Hospital by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for spur track and trestle, one thousand four hundred seven dollars (re. \$1,407);

for equipment of new power-house, one hundred forty-six dollars and fifty-six cents (re. \$146.56);

for conduits and piping, central group, one thousand four hundred and ninety-two dollars and sixty-eight cents (re. \$1,492.68);

by chapter five hundred and sixty-four of the laws of nineteen hundred and seven, reappropriated by chapter four hundred and thirty-three of the laws of nineteen hundred and nine, for renewals to electric lines, three thousand dollars (re. \$3,000);

for house for filter beds, eight hundred dollars (re. \$800).

For the Binghamton State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for nurses' home and equipment, one



- thousand three hundred seventy-eight dollars and twenty-five cents (re. \$1,378.25);
- for water supply and new lines, one thousand six hundred eighty-seven dollars and seventy-four cents (re. \$1,687.74);
- for lighting and heating plant, five hundred seventy-four dollars and thirteen cents (re. \$574.13);
- for telephone conduits and cables, two hundred seventy-six dollars and ninety-four cents (re. \$276.94);
- by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for renewal of return main, four thousand three hundred eighty-five dollars and eighty-seven cents (re. \$4,385.87).
- For the Kings Park State Hospital** by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for new laundry, four thousand two hundred sixty-six dollars (re. \$4,266);
- by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for additional accommodations for six hundred chronic patients, one hundred twenty-six thousand seventy-six dollars and twenty-eight cents (re. \$126,076.28);
- for equipment, new boiler-house, three thousand five hundred seventy-seven dollars (re. \$3,577);
- for conduits and steam piping, boiler-house, six thousand seven hundred sixty dollars and thirty-three cents (re. \$6,760.33).
- For Central Islip State Hospital** by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for feed barn with root cellar, one thousand six hundred forty dollars (re. \$1,640);
- by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for additional accommodations for six hundred chronic patients, sixteen thousand one hundred eighty-seven dollars and sixty-two cents (re. \$16,187.62).
- For Middletown State Hospital** by chapter four hundred and thirty-three of the laws of nineteen hundred and

nine for nurses' home and equipment, three thousand two hundred sixty-six dollars and ninety-three cents (re. \$3,266.93).

For Manhattan State Hospital by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for four cottages, twenty-six thousand three hundred ninety-six dollars and forty-four cents (re. \$26,396.44);

for additional medical quarters, three thousand one hundred ninety-one dollars and thirty-eight cents (re. \$3,191.38).

#### RECEPTION HOSPITAL, NEW YORK CITY.

One hundred fifty thousand dollars, appropriated for the purchase of a site for reception hospital, New York city, by chapters seven hundred and sixty, laws of nineteen hundred and four; five hundred and seventy-eight, laws of nineteen hundred and seven; four hundred and thirty-three, laws of nineteen hundred and nine, is hereby reappropriated. (Re. \$150,000.)

#### CHARITABLE.

##### STATE BOARD OF CHARITIES.

One thousand five hundred seventy-one dollars and nine cents, being the unexpended balance of the appropriation made by chapter five hundred twelve of the laws of nineteen hundred and ten, for salaries, is hereby reappropriated for the following purposes:  
For postage and transportation, two hundred dollars (re. \$200).

for traveling expenses of inspectors, one thousand three hundred seventy-one dollars and nine cents, or so much thereof as may be necessary (re. \$1,371.09).

##### CHARITIES BUILDING COMMITTEE.

For the salary of the secretary, five hundred dollars.

500 00

## FISCAL SUPERVISOR OF STATE CHARITIES.

For deficiency in salaries of four employees of the fifth grade, from January first to October first, nineteen hundred and eleven, three hundred dollars. -	300 00
For deficiency in salary of one employee of the third grade from January first to October first, nineteen hundred and eleven, ninety dollars.	90 00

## PURCHASING COMMITTEE OF STATE CHARITABLE INSTITUTIONS.

For deficiency in the salary of one employee of the sixth grade from January first to October first, nineteen hundred and eleven, two hundred twenty-five dollars.	225 00
For window in purchasing committee's room, five hundred dollars, or so much thereof as may be necessary.	500 00

## LETCHWORTH VILLAGE, THIELLS.

Two thousand eighty-two dollars and sixty-five cents, being the unexpended balance of the appropriation made by chapter four hundred and fifty-five of the laws of nineteen hundred and nine, for a spur track from the railroad to the site, is hereby reappropriated for the same purpose (re. \$2,082.65).	
For the acquisition of additional land for the protection of the water supply system of the village of Letchworth, Thiells, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For deficiency in maintenance for the fiscal year ending September thirtieth, nineteen hundred and eleven, made necessary by the increase in population, ten thousand dollars.	10,000 00

## SYRACUSE STATE INSTITUTION FOR FEEBLE-MINDED CHILDREN.

For deficiency for clothing resulting from the opinion of the attorney-general, which prohibits rendering bills for clothing in advance, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00
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**WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION.**

For seats in the assembly hall, three hundred eighty-four dollars, or so much thereof as may be necessary.	384 00
For stained glass windows for assembly hall, six hundred dollars, or so much thereof as may be necessary.	600 00
For repairs and equipment, one thousand dollars, or so much thereof as may be necessary.	1,000 00

**REFUNDS.**

The following sums shall be paid from the money paid into the treasury of the state under section thirty-seven of the state finance law, as added by chapter five hundred and eighty, laws of eighteen hundred and ninety-nine, and amended by chapter five hundred and sixty-one of the laws of nineteen hundred and seven, to be expended for maintenance:

For the New York State School for the Blind at Batavia, one thousand seven hundred dollars.	1,700 00
For the New York State Reformatory at Elmira, thirty-five thousand dollars.	35,000 00
For the New York State Hospital for the treatment of incipient pulmonary tuberculosis at Raybrook, ninety-three thousand eight hundred forty-four dollars and seven cents.	93,844 07
For the Craig Colony for Epileptics at Sonyea, twenty-one thousand dollars.	21,000 00
For the Syracuse State Institution for Feeble-Minded Children at Syracuse, four thousand five hundred dollars.	4,500 00
For the New York State Soldiers and Sailors' Home at Bath, one hundred seventy-one thousand one hundred seventy-eight dollars and two cents.	171,178 02
For the New York State Woman's Relief Corps Home at Oxford, three thousand eight hundred three dollars and twelve cents.	3,803 12

## REAPPROPRIATIONS.

The unexpended balances of former appropriations are hereby reappropriated for the same purposes as follows:

For the Western House of Refuge for Women at Albion, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for equipping cottage, hospital and industrial building, one thousand two hundred forty-nine dollars and thirty-six cents (re. \$1,249.36);

for sewage disposal, four thousand nine hundred eighty-two dollars and seventy cents (re. \$4,982.70);

for repairs, equipment, et cetera, fifty-one dollars and sixteen cents (re. \$51.16);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for cottage for inmates, sixty-three dollars and sixty-four cents (re. \$63.64);

For the New York State School for the Blind at Batavia, by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for repairs to sewer, three hundred thirty-nine dollars and seventy-eight cents (re. \$339.78);

for laundry equipment, two hundred twenty-nine dollars and seventy-seven cents (re. \$229.77).

For the New York State Reformatory for Women at Bedford, by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for sewage disposal, five hundred ninety-eight dollars and thirty cents (re. \$598.30);

for two cottages, four hundred sixty-one dollars and eighteen cents (re. \$461.18);

by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for cottage for inmates, one thousand nine hundred fifty-eight dollars and eleven cents (re. \$1,958.11);

for outside connections, five hundred twenty-five dollars (re. \$525.00);

for furnishings for industrial building, et cetera, seven hundred three dollars and fifty-nine cents (re. \$703.59);

for grading and seeding new campus, two hundred eleven dollars and fifty-six cents (re. \$211.56).

For the New York State Reformatory at Elmira, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for reconstruction, interior of hospital, six thousand six hundred seventy-eight dollars and thirty cents (re. \$6,678.30);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for cell blocks, one hundred forty-six dollars and fifty-six cents (re. \$146.56);

for plumbing, et cetera, seven hundred sixty-five dollars and seventy cents (re. \$765.70);

for plumbing, cell blocks, one hundred sixty-four dollars and thirty-one cents (re. \$164.31).

For the New York State Training School for Girls at Hudson, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for new boiler-house, coal pocket, et cetera, sixteen thousand six hundred fifty-one dollars and ninety-eight cents (re. \$16,651.98);

for switch to coal pockets, et cetera, six thousand three hundred fifty dollars (re. \$6,350);

for trunk conduit, one thousand three hundred three dollars and ninety-one cents (re. \$1,303.91);

for repairs and equipment, et cetera, four hundred thirty-seven dollars and eighty-seven cents (re. \$437.87);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for furnishings for cottages, sixty dollars and ninety-three cents (re. \$60.93).

For the State Agricultural and Industrial School at Industry, by chapter four hundred and sixty-one,  
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- laws of nineteen hundred and nine, for fire extinguishers, et cetera, two thousand six hundred eighty dollars (re. \$2,680);
- for water supply, seven hundred seventy-one dollars and forty-four cents (re. \$771.44);
- for cottages for boys, thirteen thousand four hundred twenty-three dollars and sixty cents (re. \$13,423.60);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for under and over passage, five thousand dollars (re. \$5,000);
- for shed for tools, three hundred eighty-one dollars and forty-three cents (re. \$381.43);
- for removal of plumbing fixtures, seven hundred five dollars and sixty-five cents (re. \$705.65);
- for trade school and laundry equipment, one thousand eight hundred sixty-four dollars and eighty-four cents (re. \$1,864.84);
- for site and buildings, five hundred thirteen dollars and seventy-four cents (re. \$513.74);
- For the Thomas Indian School at Iroquois, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for boys' dormitory, fifty-seven dollars and thirty-five cents (re. \$57.35);
- For the Eastern New York Reformatory at Napanoch, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for mess hall and kitchen, twelve thousand two hundred fifty-four dollars and six cents (re. \$12,254.06);
- for sewers, one thousand five hundred dollars (re. \$1,500);
- for electric appliances and cable, seven thousand seven hundred forty dollars and twenty-five cents (re. \$7,740.25);
- for purchase of land, two thousand six hundred and ninety-eight dollars (re. \$2,698);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for concrete wall, seventy dollars and seventy-one cents (re. \$70.71);

- for grading, et cetera, two hundred eighty-seven dollars and thirty-one cents (re. \$287.31);
- for furnishing mess hall and kitchen, two hundred sixty-three dollars and ninety-six cents (re. \$263.96);
- for furnishing and equipping storehouse, two hundred fifty-seven dollars and thirty-three cents (re. \$257.33);
- for equipping trade school and shop building, six hundred ten dollars and fifty-four cents (re. \$610.54);
- For the New York State Custodial Asylum for Feeble-Minded Women at Newark, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for grading and seeding, four hundred forty-one dollars and seventeen cents (re. \$441.17);
- for sewage disposal plant, one thousand fifty-five dollars and eighteen cents (re. \$1,055.18);
- for fire-escapes, four hundred fifty-five dollars and sixty cents (re. \$455.60);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for sewage disposal plant, seventy-eight dollars and eighty-six cents (re. \$78.86);
- For the New York State Woman's Relief Corps Home at Oxford, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for equipment, hospital building, two thousand five hundred thirty-one dollars and twelve cents (re. \$2,531.12);
- for water supply, two thousand twelve dollars and five cents (re. \$2,012.05);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for conduits, pipes, et cetera, sixty-six dollars and fifty-six cents (re. \$66.56);
- For the New York State Hospital for the treatment of Incipient Pulmonary Tuberculosis at Raybrook, by chapter one hundred and fifty-four, laws of nineteen



hundred and nine, for railroad switch, five hundred two dollars and seventy cents (re. \$502.70);  
for electric unit, et cetera, one hundred ninety-two dollars and eighty-one cents (re. \$192.81);  
for sewage disposal bed, six hundred fifty dollars (re. \$650);  
for equipping west unit, nine hundred ninety-eight dollars and eighty-nine cents (re. \$998.89);  
for equipping east unit, one thousand one hundred ninety-eight dollars and fifty-eight cents (re. \$1,198.58);  
by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for equipment of laboratory, one thousand dollars (re. \$1,000);  
for construction of fire line, two hundred nine dollars and thirty-two cents (re. \$209.32);  
for removing copper gutters, et cetera, six hundred fifty-four dollars and thirty-five cents (re. \$654.35);  
by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for construction and equipment, two thousand one hundred seventy-one dollars (re. \$2,171).

For the Rome State Custodial Asylum at Rome, by chapter one hundred and fifty-one, laws of nineteen hundred and nine, for construction of buildings, twenty-nine thousand three hundred dollars and forty-eight cents (re. \$29,300.48);

by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for boilers and connection, one thousand dollars (re. \$1,000);

for repairs and equipment, five hundred forty dollars and thirty-three cents (re. \$540.33);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for water supply system, one thousand dollars (re. \$1,000).

For the Craig Colony for Epileptics at Sonyea, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for construction of roads, et

cetera, one thousand five hundred thirteen dollars and seven cents (re. \$1,513.07);

for new filter material, five hundred eight dollars and fifty cents (re. \$508.50);

for two tubercular buildings, seventy-three dollars and ninety-one cents (re. \$73.91);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for stone roadway, one thousand thirty-six dollars and ninety-two cents (re. \$1,036.92).

For the New York State Hospital for the Care of Crippled and Deformed Children at West Haverstraw, by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for grading, sewerage and drainage, two thousand two hundred twenty-seven dollars (re. \$2,227).

#### **SALARY CLASSIFICATION COMMISSION.**

For the salary classification commission, for salaries, printing, postage and other expenditures of the commission, established in accordance with the provisions of chapter fifty-eight of the laws of nineteen hundred and nine, constituting chapter fifty-six of the consolidated laws, one thousand one hundred sixty dollars, or so much thereof as may be necessary.

**1,160 00**

#### **PROTECTIVE.**

##### **PUBLIC BUILDINGS.**

For the compensation of the secretary to the trustees of public buildings, one thousand dollars.

**1,000 00**

For services of orderlies, watchmen, engineers, firemen, carpenters, machinists, electricians, mechanics, cleaners, laborers, porters and other necessary employees in the care and maintenance of the public buildings, three thousand five hundred dollars, or so much thereof as may be necessary.

**3,500 00**

Twenty-seven thousand dollars is hereby appropriated to reimburse the fund of the superintendent

of public buildings for furniture, repairs, coal, fuel, water, machinery, fixtures, appliances, supplies and other necessary and incidental expenses, being moneys expended for erecting a garage, installing new bathrooms, new furnishings at the executive mansion, examining and repairing one engine at the capitol, and for deficiency in appropriation for the fiscal year ending September thirtieth, nineteen hundred and ten.	27,000 00
For renewals, repairs and improvements of the plumbing and drainage systems of the public buildings and of the fixtures and appliances in connection therewith, to be expended in the discretion of the superintendent of public buildings, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For reimbursing the painting fund of the superintendent of public buildings, five hundred dollars, being the amount expended therefrom for repairing and re-finishig the portraits in the executive chamber.	500 00
For reimbursing the general salaries fund of the superintendent of public buildings, six thousand two hundred and fifty dollars, being the amount necessary for additional employees during the session of the legislature of nineteen hundred and eleven.	6,250 00
For increase in salary of the chief carpenter from April first to September thirtieth, nineteen hundred and eleven, one hundred dollars.	100 00
For increase in salary of one employee now in the fifth grade from April first to September thirtieth, nineteen hundred and eleven, one hundred fifty dollars.	150 00
One thousand six hundred twenty-three dollars and sixty cents, being the unexpended balance of an appropriation made by chapter five hundred and thirteen of the laws of nineteen hundred and ten, for repairing and resetting the stone balustrades of the capitol where necessary, or so much thereof as may be necessary, is hereby reappropriated for painting and other incidental repairing and furnishing needed to preserve and renew the buildings, premises and prop-	

erty in charge of the superintendent of public buildings (re. \$1,623.60), and the further sum of five thousand dollars, to be expended under his direction, is hereby appropriated for the same purpose.

5,000 00

For the ordinary maintenance and extraordinary repairs of the senate house at Kingston, to be expended in the discretion of the superintendent of public buildings, three hundred dollars, or so much thereof as may be necessary.

300 00

For the maintenance and medical and surgical care by hospitals of such officers, members and employees of the several departments, bureaus and branches of the state government, as may be injured or become sick while in the performance of their duties, two thousand dollars, or so much thereof as may be necessary, said persons to be admitted upon the certificate of the superintendent of public buildings, after proper evidence of disability shall have been filed with such superintendent over the signature of the head of the department, bureau or branch of said government in which such duties were performed, or over the signature of his deputy, and of a physician or surgeon duly authorized to practice medicine in the state of New York.

2,000 00

For the care of the departments of the state government compelled to secure quarters outside of capitol on account of fire, same to be expended in the discretion of the superintendent of public buildings, six thousand four hundred twenty-six dollars, or so much thereof as may be necessary.

6,426 00

Thirty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury, not otherwise appropriated, for installing standpipes and fire pump, emergency repairs to electric wiring, removing and storing lighting fixtures, altering and equipping offices for the attorney-general formerly occupied by adjutant-general, including the moving and installing of office equipment for

these departments, and for other permanent repairs in the state capitol damaged by fire.

35,000 00

Fifteen hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for improvements to electric wiring in the executive mansion, including the construction of transformer room and the placing of overhead feeder cables under ground.

1,500 00

#### TRUSTEES OF PUBLIC BUILDINGS.

For the salary of the auditor of accounts presented for rebuilding the capitol destroyed or damaged by the recent fire, and accounts of the new education building and boiler-house, three thousand five hundred dollars.

3,500 00

#### FOREST, FISH AND GAME COMMISSION.

For the payment of extra expenses of game protectors in the discharge of duty outside their respective districts and the payment of special protectors and wardens when such protectors and special protectors and wardens are acting under the orders of the commissioner or chief protector, nine thousand dollars, to be paid from the moneys received from the sale of hunters' licenses.

9,000 00

For the payment of moieties, justices, constables, attorneys, witnesses, court costs, surveying and securing evidence for prosecutions for violations of the forest, fish and game law, thirty thousand dollars, or so much thereof as may be necessary, to be paid from moneys received from fines and penalties, pursuant to chapter one hundred and thirty of the laws of nineteen hundred and eight, and chapter twenty-four of the laws of nineteen hundred and nine, being the forest, fish and game law.

30,000 00

For making surveys in protecting the state's title and interest in state land in the forest preserve, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

For the payment of salaries of two stenographers in the forestry bureau, twelve hundred dollars, or so much thereof as may be necessary.	1,200 00
For rent and office expenses of legal department, one thousand dollars.	1,000 00
For general expenses, traveling, surveying, nursery work, for reforesting state lands, for supplying to citizens of the state, at cost, trees to be planted under the direction and regulation of the forest, fish and game commission, and for preparing and distributing instructive pamphlets on forestry subjects, and for making field studies, securing volume and yield tables, determining rate of forest growth and conditions, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For maintenance and expenses of game bird farm, the distribution of birds and supplying food for and caring for the state's wild game, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the purpose of purchasing a patrol boat for the use of the bureau of marine fisheries in Long Island waters, three thousand five hundred dollars, or so much thereof as may be necessary.	3,500 00
For completing new map of the forest preserve in the Catskills, five hundred dollars, or so much thereof as may be necessary.	500 00
For traveling expenses, services, supplies and equipment for the enforcement of the fire provisions of the forest, fish and game law, fifty-five thousand dollars, or so much thereof as may be necessary.	55,000 00
For general expenses for the forestry bureau, traveling, surveying, nursery work, reforesting lands, publishing instructive pamphlets, furnishing trees at cost to citizens of the state, making field studies and yield tables, determining the rate of growth of trees, et cetera, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

For general office expenses, furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same and other necessary and incidental office expenses, six thousand dollars, or so much thereof as may be necessary.	6,000 00
For the expenses of game protectors, wardens and special protectors, fifty-five thousand seven hundred fifty dollars, or so much thereof as may be necessary.	55,750 00
For Louis Marshall for legal services and disbursements in the case of the Saranac Land and Timber Company versus James A. Roberts as state comptroller, two thousand five hundred eighteen dollars and forty-five cents.	2,518 45
Nine hundred eighteen dollars and seventy-eight cents, being the unexpended balance of an appropriation made by chapter four hundred and thirty-three of the laws of nineteen hundred and nine, for continuing the survey, improving and plotting of state lands now under lease or to be leased in the future for the shell-fish industry, is hereby reappropriated for the same purpose. (Re. \$918.78.)	

#### LAND OFFICE.

For payment of assessments on state property for local improvements made, when approved by the comptroller, pursuant to section twenty-one, chapter fifty, laws of nineteen hundred and nine, being the public lands law, two thousand three hundred dollars, or so much thereof as may be necessary.	2,300 00
For investigations of claims for assessments filed in the office of the comptroller, two hundred dollars, or so much thereof as may be necessary.	200 00

#### INDIAN AFFAIRS.

For the agent of the Indians on the Onondaga reservation, for the purchase and distribution of salt to Indians, fifty dollars.	50 00
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## NIAGARA RESERVATION.

For water, light and heat for public comfort, stations one and two, two thousand dollars, or so much thereof as may be necessary. 2,000 00

For such necessary improvements to elevator shaft and tunnel, including ventilating and lighting, as are advocated by the state architect, three thousand dollars, or so much thereof as may be necessary. 3,000 00

## SARATOGA MONUMENT.

For maintenance, repairs and improvements, five hundred dollars, or so much thereof as may be necessary. 500 00

## SARATOGA SPRINGS STATE RESERVATION.

For the salary of secretary, two thousand dollars. 2,000 00

For the traveling expenses of the commission, incidental office expenses, expense necessary for the protection of the various properties which have been and will be acquired by the commission, including service of watchmen, insurance, examinations and reports on the property, expenses for the supervision and management of the property, also expenses for proper laying out of the reservation and the surveys necessary, the cost of the reconstruction of the dam on the Carlsbad Spring property, construction of a proper building over the Carlsbad Spring, removing tenement property, rubbish on High Rock and adjoining spring properties, twenty-four thousand dollars, or so much thereof as may be necessary. 24,000 00

For Nash Rockwood, for professional services from January first, nineteen hundred and nine, to September first, nineteen hundred and ten, in the following actions in the supreme court, as special counsel in the cases of the People: People versus Lincoln Spring Company, People versus Geysers Natural Gas Company, People versus New York Carbonic Gas Company, People versus Carbonic Gas Company, Con-



gress Springs Company, People versus Harry M. Levingsten, People versus Mary Augusta Patterson, People versus Lindsley Natural Gas Company versus The Attorney-General et alii, People versus Natural Carbonic Gas Company et alii, People versus Emily H. Hathorn et alii, People versus Lincoln Spring Company, People versus Emily H. Hathorn, seven thousand dollars, or so much thereof as may be necessary.	7,000 00
For C. S. and C. C. Lester, for legal services and disbursements and expenses, and Lindsley Natural Gas Company versus The Attorney-General et alii, seven thousand two hundred six dollars and sixty cents, or so much thereof as may be necessary.	7,206 60

## FIRE ISLAND STATE PARK.

For the commissioners, for salaries and services of officers and employees, five thousand eight hundred thirty dollars, or so much thereof as may be necessary.	5,830 00
For repairs, traveling, office and incidental expenses, three thousand one hundred seventy dollars or so much thereof as may be necessary.	3,170 00

## LETCHWORTH PARK.

For the American Scenic and Historic Preservation Society, for superintendent, caretakers and laborers, for repairs and maintenance of roads, paths, bridges and buildings, for arboretum and for printing, traveling and contingent expenses, four thousand dollars, or so much thereof as may be necessary.	4,000 00
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## SIR WILLIAM JOHNSON MANSION.

For the Johnstown Historical Society, for removing cupola and restoring roof of mansion to its original shape three hundred fifty dollars, or so much thereof as may be necessary.	350 00
For repairing and restoring old stone fort to its original condition as near as can be, three hundred dollars, or so much thereof as may be necessary.	300 00

For building line fences between state property and lands of adjacent owners, three hundred dollars, or so much thereof as may be necessary.	300 00
For repairing drives and walks, two hundred fifty dollars, or so much thereof as may be necessary.	250 00

## PALISADES INTERSTATE PARK COMMISSION.

For the commissioners:

for salaries of the master, mate and cook of the "Half Moon," eighteen hundred twelve dollars.	1,812 00
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## BEAR MOUNTAIN.

For improving the land at the Bear Mountain property to make it available for park purposes, five hundred dollars, or so much thereof as may be necessary.	500 00
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## LAKE GEORGE BATTLEGROUND.

For the New York Historical Association, custodian Lake George battleground park, for finishing survey, laying out, improving and care of park, seven hundred fifty dollars, or so much thereof as may be necessary.	750 00
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## CLINTON HOUSE.

For the Mahwenawasigh Chapter of the Daughters of the American Revolution, for care and maintenance of Clinton House, two hundred seven dollars, or so much thereof as may be necessary.	207 00
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## SCHUYLER MANSION.

For compensation of keeper, six hundred dollars.	600 00
For the president of the board of trustees, in equal semi-annual payments, April first and October first, on the warrant of the comptroller, to be expended under the direction of the board for repairs to the property and care of the building and grounds, one thousand dollars.	1,000 00

## WATKINS GLEN.

For Watkins Glen state reservation, for the salary of the superintendent, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the salaries of two caretakers, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the salaries of two women attendants at entrance pavilion, three hundred dollars, or so much thereof as may be necessary.	300 00
For traveling, printing, postage and other general expenses, five hundred dollars, or so much thereof as may be necessary.	500 00
For repairs of railings, painting railings and other iron and woodwork, repair of paths, bridges and stairs, caring for trees, banks, buildings, et cetera, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For scaling rocks, three hundred dollars, or so much thereof as may be necessary.	300 00
For purchase of land adjacent to entrance, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For fire extinguishers, one hundred fifty dollars, or so much thereof as may be necessary.	150 00
For flying doors on entrance pavilion, seventy-five dollars, or so much thereof as may be necessary.	75 00
For concrete outhouses at suspension bridge, and upper end of glen, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For concrete toolhouse, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For dyke at entrance, concrete and other dyking, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For iron pipe guard railing from suspension bridge to Corning street, at Cavern cascade stairs, Sylvan gorge stairs, Central cascade stairs and bridge, and Rainbow fall stairs and bridge, one thousand dollars, or so much thereof as may be necessary.	1,000 00

For concrete lookouts through glen, five hundred dollars, or so much thereof as may be necessary.	500 00
For path from railroad bridge east connecting with glen path at suspension bridge, eight hundred dollars, or so much thereof as may be necessary.	800 00
For fence between glen property and adjacent cemetery, one hundred fifty dollars, or so much thereof as may be necessary.	150 00
For designs, plans and oversight of construction, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For seats through glen, three hundred dollars, or so much thereof as may be necessary.	300 00
For signs, two hundred dollars, or so much thereof as may be necessary.	200 00
For survey and marking bounds of glen property, five hundred dollars, or so much thereof as may be necessary.	500 00
For draining paths and graveling, five hundred dollars, or so much thereof as may be necessary.	500 00
For flag and pole at entrance, one hundred dollars, or so much thereof as may be necessary.	100 00
For paving in front of Watkins Glen state park, two thousand dollars, or so much thereof as may be necessary.	2,000 00

#### STONY POINT RESERVATION.

For care and maintenance of, and improvement to the building and grounds of the state reservation at Stony Point, for graveling and surfacing the roads and walks on said reservation and the right of way thereto, and for the construction of new roads, for grading, for water rent, for public comfort stations, for repairs to the dock and landing stage on the northerly side of said reservation, and for the expense of mounting and emplacement of revolutionary cannon donated by act of congress, three thousand dollars, or so much thereof as may be necessary.	3,000 00
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### PHILIPSE MANOR HOUSE.

For the care of Philipse Manor House and grounds, in Yonkers, as follows:

salary of caretaker, nine hundred dollars;	900 00
services of laborers, seven hundred and fifty dollars;	750 00
light, fuel and water, six hundred dollars, or so much thereof as may be necessary;	600 00
planting and sodding, et cetera, four hundred dollars, or so much thereof as may be necessary;	400 00
contingent expenses, one hundred dollars, or so much thereof as may be necessary.	100 00

### CROWN POINT RESERVATION.

For the New York State Historical Association for the preservation and protection of the state park at Crown Point, New York, known as the Crown Point reservation, including the employment of a caretaker, one thousand dollars, or so much thereof as may be necessary.

1,000 00

### NEW YORK MONUMENTS COMMISSION.

For the New York monuments commission, for salaries of engineer and secretary and necessary employees, and for such other expenses as may be required for the work of said commission, including actual and necessary traveling and other contingent expenses incurred by said commissioners in the discharge of their duties, and for compensation for their services, as provided for by section six of chapter three hundred and seventy-one, laws of eighteen hundred and ninety-four, and chapter two hundred and sixty-nine of laws of eighteen hundred and eighty-seven, nine thousand dollars, or so much thereof as may be necessary, to be paid by the treasurer on the warrant of the comptroller on vouchers approved by the presiding officer of said commission.

9,000 00

For the New York monuments commission, for transportation to and from Andersonville, Georgia, of the

surviving veterans of the New York commands in the war of the rebellion who were confined in the confederate states military prison at Andersonville, Georgia, to be designated by and under the regulations of said commission, to attend the dedication of the New York state monument erected by the state in Andersonville, Georgia, national cemetery; and for the transportation and subsistence of the governor and two members of his staff, lieutenant-governor, speaker of the assembly, members of the two finance committees of the legislature, and this board of commissioners, an aggregate not exceeding forty-four persons, and other incidental expenses, thirty thousand dollars, or so much thereof as may be necessary, to be paid by the treasurer on the warrant of the comptroller on vouchers approved by the commission.

30,000 00

For building a foundation and pedestal for the monument of Brevet Major-General Newton Martin Curtis, three thousand dollars, or so much thereof as may be necessary, to be expended under the supervision of the New York monuments commission.

3,000 00

The commissioners appointed by and in pursuance to chapter three hundred and seventeen of the laws of eighteen hundred and ninety-five, known as the New York monuments commission, are hereby authorized and directed to procure and erect on an appropriate site to be selected by said commissioners on the battle field at Sackets harbor, Jefferson county, New York, known as Fort Tompkins park, a suitable monument to commemorate the patriotic and gallant services of the officers, soldiers and sailors of the state of New York who took part in the battles at Sackets harbor and vicinity during the war of eighteen hundred and twelve at an expense not to exceed five thousand dollars, and the said sum of five thousand dollars is hereby appropriated, the said amount to be paid by the state treasurer on the warrant of the comptroller and the presentation of proper vouchers duly certified by the

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presiding officer of the New York monuments commission.

5,000 00

### CONSTRUCTIVE.

#### OFFICE OF THE STATE ENGINEER AND SURVEYOR.

For deficiency in salary of the chief clerk from March first to September thirtieth, nineteen hundred and eleven, three hundred and fifty dollars.

350 00

For salaries of employees from April first to September thirtieth, nineteen hundred and eleven, as follows:

tenth grade, one employee, seven hundred fifty-eight dollars and thirty-three cents;

758 33

seventh grade, one employee, two hundred ninety-one dollars and sixty-seven cents;

291 67

sixth grade, one employee, one hundred sixteen dollars sixty-seven cents.

116 67

For the payment of work done and for continuing such work in co-operation with the United States geological survey in surveying and mapping the state of New York in the manner defined by chapter two hundred and nineteen, laws of eighteen hundred and ninety-eight, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

For hydrographic work connected with the measurements of volumes of streams and flow water in the state of New York for the purpose of determining the water supply available for canals and for potable and domestic uses, and the development of water powers, one thousand five hundred dollars, or so much thereof as may be necessary. This appropriation to be used in co-operation with the United States geological survey in hydrographic work, provided an appropriation therefor is made by the United States government, otherwise this appropriation may be expended by the state engineer and surveyor without the co-operation from the United States government.

1,500 00

For salaries and actual and necessary expenses of a chief bridge designer and inspector, and the necessary

assistants, draughtsmen and supplies, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the state engineer and surveyor, for traveling expenses and disbursements incurred by his department in making examinations, surveys and maps for restoring and placing monuments on the boundary lines of the state, and for expenses incurred for labor and material in procuring and placing such monuments, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For expenses in examining land grant applications, and making additions to maps of land board in state engineer's office, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For compiling data and publishing old records in the land bureau in the state engineer's office, two thousand dollars, or so much thereof as may be necessary.	2,000 00

## OFFICE OF THE STATE ARCHITECT.

For the state architect, seven thousand three hundred forty-three dollars and twenty-one cents, being the unexpended balance of an appropriation made by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for a contingent fund, is hereby reappropriated (re. \$7,343.21), and the further sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the same purpose.	5,000 00
For deficiency in salary of one employee, ninth grade, from April first to September thirtieth, nineteen hundred and eleven, one hundred fifty dollars.	150 00

## DEPARTMENT OF PUBLIC WORKS.

For opening the channel between Lakes Wanetta and Lamoka, Schuyler county, five thousand one hundred seventy dollars, or so much thereof as may be necessary.	5,170 00
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For the improvement of the Cayuga inlet in addition to one hundred twenty-five thousand dollars appropriated by chapter two hundred and sixty-seven of the laws of nineteen hundred and eight, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For the maintenance and repair of the drawbridge over Minisceongo creek, Rockland county, two hundred dollars, or so much thereof as may be necessary.	200 00
For the maintenance and repair of the drawbridge known as Drake's drawbridge, spanning Wappinger creek in the village of Hamburg, Dutchess county, two hundred dollars, or so much thereof as may be necessary.	200 00
Two thousand dollars, or so much thereof as may be necessary, for repairs to the State dam on the Saint Regis river, between the villages of Brasher Falls and Winthrop.	2,000 00
For the purpose of removing obstructions from the outlets of Round lake and Ballston lake in the county of Saratoga, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For paying the cost of electricity for lighting and maintaining lighthouse at the entrance of the channel on Lake Keuka at Penn Yan, one hundred fifty dollars, or so much thereof as may be necessary.	150 00
For reimbursing the superintendent of public works for moneys expended by him in relieving flood conditions at Herkimer, New York, one hundred fifty-four dollars and sixty cents, or so much thereof as may be necessary.	154 60
For the superintendent of public works for the improvement and repairs of the Shinnecock and Peconic canal, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00

#### WATER SUPPLY COMMISSION.

For continuing the hydrographic investigations in co-operation with the United States geological survey, including the systematic gauging, measuring and re-

<p>cording of the rainfall, evaporation and stream flow throughout the state, ten thousand dollars, or so much thereof as may be necessary.</p>	10,000 00
<p>For surveys, plants, estimates, examinations, investigations and reports, and expenses incidental thereto, and not otherwise provided for, as required by the state boards and commissions law, chapter fifty-six, laws of nineteen hundred and nine, in connection with public water supplies, and the improvement of rivers and water courses within the state, twenty-five thousand dollars, or so much thereof as may be necessary.</p>	25,000 00

## DEPARTMENT OF HIGHWAYS.

<p>For the state highway commission, for the construction of a bridge in the Allegany Indian reservation across the Allegany river in the village of Salamanca, seventy thousand dollars, or so much thereof as may be necessary.</p>	70,000 00
<p>For repairs to the highway between Sevey and Cranberry lake in the county of Saint Lawrence, five thousand dollars, or so much thereof as may be necessary.</p>	5,000 00
<p>For repairs and improvements to the state road between the villages of South Colton and Piercefield in the county of Saint Lawrence, thirty thousand dollars, or so much thereof as may be necessary.</p>	30,000 00

## TOLL BRIDGES.

<p>For the comptroller for the state's one-half of the expense incurred in the condemnation and acquirement of toll bridges, pursuant to and to be paid as provided by chapter one hundred and forty-six of the laws of nineteen hundred and nine, and of any act or acts amendatory thereof and supplemental thereto, fifty thousand dollars, or so much thereof as may be necessary.</p>	50,000 00
<p>For the Fulsom Landing Central Bridge Company, Limited, for the state's one-half of the expense of acquiring a toll bridge pursuant to the provisions of</p>	

chapter one hundred and forty-six of the laws of nineteen hundred and nine, six thousand five hundred fifty-four dollars and sixty-three cents, or so much thereof as may be necessary.

6,554 63

### GENERAL.

#### BANK DEPARTMENT.

For deficiency in appropriation for the actual and necessary traveling expenses of the superintendent of banks in the performance of his official duties, one thousand two hundred dollars, or so much thereof as may be necessary.

1,200 00

#### INSURANCE DEPARTMENT.

For the installation of steel filing cabinets in the general office, one thousand eight hundred dollars, or so much thereof as may be necessary.

1,800 00

For the payment of compensation and expenses of counsel employed by the superintendent of insurance in proceedings before the senate, between the thirteenth day of March and the second day of May, nineteen hundred and seven, for his removal from office, upon the recommendation of the governor to the senate, dated February twentieth, nineteen hundred and seven, ten thousand dollars, or so much thereof as may be necessary, upon the audit of the comptroller.

10,000 00

#### STATIONERY.

For stationery for the governor, secretary of state, comptroller, treasurer, attorney-general, state engineer and surveyor, commissioner of education, adjutant-general, clerk of the court of appeals, state board of charities, state department of health, civil service commission, superintendent of public buildings, fiscal supervisor of state charities, and department of labor, three thousand dollars, or so much thereof as may be necessary.

3,000 00

**ERRONEOUS PAYMENT OF TAXES.**

**For refund of payment of taxes erroneously paid into the state treasury, one thousand dollars, or so much thereof as may be necessary.** 1,000 00

**REDEMPTION OF LANDS.**

**For repayment of moneys to purchasers upon redemption of lands sold for taxes, five thousand dollars, or so much thereof as may be necessary.** 5,000 00

**COUNTY TREASURERS.**

**For advances to county treasurers on account of taxes on property of nonresidents, and for taxes on state, wild or forest lands which may be returned to the comptroller's office, and for adjusting accounts of state taxes with counties, fifty thousand dollars, or so much thereof as may be necessary.** 50,000 00

**For the convention committee at Buffalo having in charge the reception and entertainment of the national encampment of the American veterans of foreign service, to be held in Buffalo in the year nineteen hundred and eleven, for the proper and legitimate expenses attending the reception and entertainment of a suitable representation of the state of New York at the national encampment of the American veterans of foreign service to be held at Buffalo in the year nineteen hundred and eleven, and of such honorably discharged soldiers, sailors and marines who served in the Spanish-American war as may attend such encampment, one thousand dollars, or so much thereof as may be necessary, to be paid to and disbursed by the convention committee at Buffalo having in charge such reception and entertainment, under such regulations as may be prescribed by the state comptroller.** 1,000 00

**For Harold Elsworth, for excess of excise tax in the years nineteen hundred and six, seven, eight and nine, by reason of an error in the state enumeration in the**

village of Red Hook, Dutchess county, for the said years, to be paid upon the audit of the comptroller after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Elsworth, by reason of said erroneous enumeration, six hundred sixty-two dollars and fifty cents, or so much thereof as may be necessary.

662 50

For Arthur Wipper, for excess of excise tax in the years nineteen hundred seven and eight, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said years, to be paid on the audit of the comptroller after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Wipper, by reason of said erroneous enumeration, three hundred dollars, or so much thereof as may be necessary.

300 00

For Kipp and Horton, for excess of excise tax in the years nineteen hundred eight and nine, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said years, to be paid on the audit of the comptroller, after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Kipp and Horton, by reason of said erroneous enumeration, two hundred twelve dollars and fifty cents, or so much thereof as may be necessary.

212 50

For Benjamin R. Horton, as administrator of the estate of Emmet R. Horton, deceased, for excess of excise tax in the year nineteen hundred and six, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said year, to be paid on the audit of the comptroller after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Emmet R. Horton by reason of said

erroneous enumeration, one hundred and fifty dollars, or so much thereof as may be necessary.	150 00
For Henry D. Pink, for excess of excise tax in the years nineteen hundred and six, seven, eight and nine, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said years, to be paid on the audit of the comptroller, after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Pink, by reason of said erroneous enumeration, six hundred sixty-two dollars and fifty cents, or so much thereof as may be necessary.	662 50
For the payment of judgments against the state for costs duly awarded in certain actions brought pursuant to law, to be paid upon the certificate of the attorney-general, six thousand dollars, or so much thereof as may be necessary.	6,000 00
For the Davis-Colby Ore Roaster Company, for refund for taxes erroneously paid into the state treasury, two hundred sixty-seven dollars and thirty-five cents, or so much thereof as may be necessary.	267 35
For the purpose of refunding taxes erroneously paid into the treasury of the state by the Buffalo, Lake Erie and Niagara Railroad Company, under section one hundred and eighty of article nine of the general tax law, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the purpose of refunding taxes erroneously paid into the treasury of the state by the Niagara Transfer Railway Company, under section one hundred and eighty of article nine of the general tax law, five hundred dollars, or so much thereof as may be necessary.	500 00
For the purpose of refunding taxes erroneously paid into the treasury of the state by the Hornell, Bath and Lake Keuka Railway Company, under section one hundred and eighty of article nine of the general tax law, five	

hundred dollars, or so much thereof as may be necessary.	500 00
For the purpose of refunding tax for the year ending December thirty-first, nineteen hundred and seven, erroneously paid into the treasury of the state, under the provisions of section one hundred and eighty-seven of the general tax law by the Svea Fire and Life Insurance Company, Limited, of Gothenburg, Sweden, six hundred thirty-eight dollars and thirty-four cents, or so much thereof as may be necessary.	638 34
For the purpose of refunding taxes erroneously paid into the treasury of the state by the Rossia Insurance Company, under the provisions of section one hundred and eighty-seven of the general tax law, two thousand, six hundred eighty-three dollars and eighty-eight cents, or so much thereof as may be necessary.	2,683 88
To reimburse Robert Lee Morrell, as chairman of the automobile manufacturers' committee for funds deposited with the state engineer and surveyor on or about the twentieth day of April, nineteen hundred and eight, and for which judgment was rendered in the supreme court, appellate division, first judicial department, on the eighteenth day of November, nineteen hundred and nine, five thousand dollars, or so much thereof as may be necessary.	5,000 00

### **FROM THE CANAL FUND.**

#### **DEPARTMENT OF PUBLIC WORKS.**

For the services of the agent employed by the superintendent of public works, on the request of the attorney-general, as provided in section two hundred and seventy of the code of civil procedure, in defense of claims against the state on account of the canals, and for disbursements incurred by him, including the payment for such assistants as may be necessary in the preparation of cases, to be advanced to said agent by the comptroller in such sums as may be approved by

him, upon such agent filing with the comptroller good and sufficient bond in the penalty of fifteen thousand dollars, for which advances vouchers shall be rendered, fifteen thousand dollars, or so much thereof as may be necessary, payable from the canal fund.	15,000 00
For deficiency in salary of the assistant to the deputy from April first to September thirtieth, nineteen hundred and eleven, two hundred dollars.	200 00
For the construction of a bridge from Moyer creek at West Main street in the village of Frankfort, with necessary sidewalks and approaches, ten thousand dollars, or so much thereof as may be necessary, the work to be done by contract on plans to be prepared by the state engineer and surveyor and approved by the canal board.	10,000 00
For the construction of a concrete wall along Moyer creek, in the village of Frankfort, to take the place of present wooden docking abutting the property of A. S. Seaman and the property of the Baker and Harder estate, six thousand four hundred dollars, or so much thereof as may be necessary, the work to be done under the supervision of the superintendent of public works.	6,400 00
For reimbursing the village of Waterford in payment of the state's share for assessment for brick pavement, granite curb and concrete sidewalk fronting lands of the state of New York on Third street in the said village, two hundred twenty-four dollars and seventy-two cents, or so much thereof as may be necessary.	224 72
For Edward N. Trump, for lands situated in the town of Camillus, Onondaga county, appropriated for the use of the enlarged Erie canal, pursuant to chapter three hundred and thirty-eight of the laws of eighteen hundred and ninety-four, the sum of six thousand five hundred dollars.	6,500 00
For the payment to John M. Shultz of Syracuse, for work done in connection with the construction of a lift	



bridge over the Oswego canal at North Salina street, Syracuse, over and above the amount called for by his contract but which was ordered to be done by the state engineer and surveyor and the superintendent of public works, and for which no payment has been made, one thousand one hundred sixty-three dollars and eighty-three cents, or so much thereof as may be necessary.

1,163 83

#### STATE ENGINEER AND SURVEYOR.

For surveys and maps for the use of the attorney-general in cases before the court of claims arising on account of the canals of the state, and for other expenses connected therewith, five thousand dollars, or so much thereof as may be necessary, payable from the canal fund.

5,000 00

#### FROM THE PRISON CAPITAL FUND.

For the payment of salaries of any additional foremen or employees, made necessary by any increase of the state prison industries, approved by the civil service commission, three thousand dollars, or so much thereof as may be necessary, but no part thereof shall be available for any increase of the salaries of any of the above specified employees.

3,000 00

§ 2. No manager, trustee or other officer of any state, charitable or other institution receiving moneys under this act from the state treasury for maintenance and support shall be interested in any purchase, sale or contract made by any officer for any of said institutions. In accounts for repairs or new work not done under contract provided for in this act the name of each workman, the number of days he has been employed, and the rate and amount of wages paid to him shall be given. If contracts are made for repairs or new work, or for supplies, duplicates thereof, with specifications, shall be filed with the comptroller.

§ 3. This act shall take effect immediately.

(No. 29.)

**AN ACT** to amend the election law, in relation to nominations and primaries.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The schedule of articles of chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," is hereby amended to read as follows:

**Article 1.** Short title; application; definitions (§§ 1-3).

2. **[Primaries; general provisions]** *Enrollment of voters* (§§ **[2]**4-**[7]**24).

3. **[Enrollments and primaries in cities and in villages having five thousand inhabitants or more]** *Party organization* (§§ **[20]**35-**[74]**40).

4. **[Enrollments and primaries in towns]** *Designation of candidates for party nominations or for election to party position* (§§ **[90]**45-**[104]**58).

4-a. *Conduct of primary elections; canvass of returns* (§§ 70-94).

4-b. *Convention* (§§ 110-114).

5. Nominations (§§ 120-137).

6. Registration of voters (§§ 150-184).

7. Boards of elections in cities of the first class containing one or more counties (§§ 190-201.)

8. Commissioner of elections in the county of Erie (§§ 210-221).

9. Commissioner of elections in the county of Monroe (§§ 230-242).

10. Commissioner of elections in the county of Onondaga (§§ 250-260).

11. Commissioner of elections in the county of Westchester (§§ 270-281).

12. Times, places, notices, officers and expenses of elections (§§ 290-320).

13. Ballots and stationery (§§ 330-345).

Article 14. Conduct of elections and canvass of votes (§§ 350-381).

15. Voting machines (§§ 390-421).

16. Boards of canvassers (§§ 430-444).

17. Representative in congress and presidential electors (§§ 450-457).

18. Metropolitan elections district (§§ 470-~~488~~489).

19. Soldiers' and sailors' elections (§§ 500-522).

20. Corrupt practices (§§ 540-~~561~~562).

21. Laws repealed; when to take effect (§§ 570, 571).

§ 2. The schedule of sections to article one of such chapter is hereby amended to read as follows:

## ARTICLE 1.

### SHORT TITLE; APPLICATION; DEFINITIONS.

Section 1. Short title.

2. *Application.*

3. *Definitions.*

§ 3. Such chapter is hereby amended by inserting in article one thereof two new sections to be known as sections two and three and to read as follows:

§ 2. *Application.* Except as otherwise herein provided, articles two, three, four, four-a and four-b of this chapter shall be controlling:

1. *On the method of enrolling the voters of a party.*

2. *On the organization and conduct of party committees.*

3. *On the method of electing members of party committees, and delegates and alternates to party conventions.*

4. *On the organization and conduct of party conventions.*

5. *On the nomination by parties of all candidates for office authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, except town, village and school district officers, and electors of the president and vice-president of the United States.*

§ 3. *The terms used in this chapter shall have the signification herein defined unless other meaning is clearly apparent from the language or context:*

1. The term "general election" means the election held on the Tuesday next succeeding the first Monday in November.

2. The term "official primary" or "official primary election" means a primary election held by a party for the purpose of nominating party candidates for office, or for the election of any member of a party committee constituted as provided in section thirty-five of this chapter, or for the election of delegates and alternates to a party convention. An "unofficial primary" or an "unofficial primary election" means any other primary or primary election held by a party or independent body.

3. The term "primary day" means the day upon which an official primary election is held, as in this chapter provided.

4. The term "fall primary" means the official primary election held on the seventh Tuesday before the general election.

5. The term "spring primary" means the official primary election held on the last Tuesday in March in years when a president of the United States is to be elected.

6. The term "unit of representation" means any election district, town, ward of a city, assembly district, or any other political subdivision of the state, respectively, which is the unit from which members of any political committee or delegates to a party convention shall be elected as herein provided.

7. The term "custodian of primary records" means the officer or board whose duty it is by the provisions of this chapter to provide official ballots for general elections.

8. The term "party" means any political organization which at the last preceding election of a governor polled at least one per centum of the total vote cast for the office of governor. No organization or association of citizens for the election of judicial or city officers and in cities of over one million inhabitants no organization or association of citizens for the election of borough or county officers shall be deemed a party within the meaning of this chapter, and membership in any such organization or association shall not prevent a voter from enrolling with, and acting as a member of a political party.

9. The term "nomination" means the selection in accordance with the provisions of this chapter of a candidate for office authorized to be filled at a general election or at a special election held to fill a vacancy in such office.

10. The term "designation" means any method in accordance with the provisions of this chapter by which candidates for party nominations, or for election as party committeemen or delegates, may be named in order that they may be placed upon the official ballot for any official primary election.

11. The term "official primary ballot" means the ballot prepared, printed and supplied for use at an official primary election in accordance with the provisions of this chapter.

12. The term "party position" means membership in a party committee or the position of delegate or alternate to a party convention.

13. The term "convention" means an assemblage of delegates elected in accordance with the provisions of this chapter representing a political party or independent body, duly convened for the purpose of nominating candidates for public office, electing delegates to other conventions, electing officers for party or independent organizations, or for the transaction of any other business relating to the affairs or conduct of the party or independent body.

14. The term "committee" means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political subdivision of the state.

15. The term "independent body" means any organization or association of citizens who, by petition, nominate candidates for office to be voted for at a general, special or village election, or town meeting, and which, if such independent body nominated candidates to be voted for at the preceding general election of a governor, polled less than ten thousand votes for governor.

16. The term "party nomination" means the selection by a party or political party of a candidate for an office authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, or at a town meeting.

17. The term "independent nomination" means the selection of a candidate by an independent body for an office authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, or at a town meeting.

18. The term "party candidate" or "party nominee" means a person who is selected by a party or political party to be its candidate for an office authorized to be filled at a general election,

*or at a special election held to fill a vacancy in such office, or at a town meeting.*

19. *The term "independent candidate" or "independent nominee" means a person who is selected by an independent body to be its candidate for an office authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, or at a town meeting.*

§ 4. The schedule of sections of article two of such chapter is hereby amended to read as follows:

## ARTICLE 2.

### [PRIMARIES; GENERAL PROVISIONS.] ENROLLMENT OF VOTERS.

#### Section [2. Definitions of primary and convention.]

#### [3. Notice of primary.]

4. [Organization and conduct of primaries.] *Delivery of enrollment books.*

5. [Qualifications of voters at primaries.] *Enrollment books.*

[6. Duties of chairman of primary.]

6. [7. Watchers and canvass of votes at primaries.]  
*Voting booths and enrollment boxes.*

7. *Enrollment blanks and envelopes.*

8. *Delivery of enrollment blanks to voters who register personally.*

9. *Delivery of enrollment blanks to voters where registration is not personal.*

10. *Enrollment by voters.*

11. *Examination, sealing and custody of enrollment boxes.*

12. *Certification and secrecy of enrollment where registration is personal.*

13. *Certification and secrecy of enrollment where registration is not personal.*

14. *Opening of enrollment box and completion of enrollment.*

15. *Enrollment in the year nineteen hundred and eleven.*

16. *Duplicate enrollment books.*

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**Section 17.** *Use of duplicate enrollment books at unofficial primaries.*

**18.** *Use of original enrollment books at official primaries.*

**19.** *Right to enroll and vote at primaries.*

**20.** *New enrollment books for changed districts.*

**21.** *Enrollment books to be public records; transcripts of enrollment.*

**22.** *Publication of enrollment.*

**23.** *Judicial review of enrollment.*

**24.** *Correction of enrollment with respect to persons not in sympathy with party.*

§ 5. Section twenty-two of such chapter is hereby renumbered section four, inserted as a part of article two thereof and amended to read as follows:

§ **[22]** 4. **[Enrollment]** *Delivery of enrollment books.* The custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all voters of the election district may be inscribed therein alphabetically. Said books shall be delivered by the custodian of primary records to the election inspectors of the respective election districts immediately before the first day of registration in each year and also in districts where personal registration is not required, to the town clerk at least twenty-four hours before the first day of registration, who shall deliver such enrollment books to the inspectors of election of the respective election districts in his town one-half hour before the opening of the polls.

§ 6. Section twenty-three of such chapter is hereby renumbered section five, inserted as a part of article two thereof and amended to read as follows:

§ **[23]** 5. Enrollment books. **[except in cities of one million inhabitants and of second class. In cities of the first class containing a population of over three hundred thousand and less than five hundred thousand and cities of the third class to which this chapter is made applicable pursuant to section seventy-three such]**

The enrollment books shall be so arranged and printed that there shall be **[fourteen]** *twelve* columns on each page: the first for the enrollment numbers of the voters; the second for the surnames of the voters; the third for the christian names of the voters; the fourth for their residence addresses; the fifth for the word "yes"; the sixth for the name of the party, if any, with which the voter shall enroll; the seventh **[for an entry to show a special enrollment]**; the eighth for the record of transfer or removal from one election district to another; the ninth **[for the word "voted" in case the voter votes at the [first official] spring primary [election of the year]]**; the **[tenth]** *eightth* for a record as to challenges in case he is challenged thereat; the **[eleventh]** *ninth* and **[twelfth]** *tenth* columns for similar entries in case he votes at the **[second official] fall primary [election]**; and the **[thirteenth]** *eleventh* and **[fourteenth]** *twelfth* columns for similar entries in case there be a third official primary election or an unofficial primary election.

§ 7. Section twenty-five of such chapter is hereby renumbered section six, inserted as a part of article two thereof and amended to read as follows:

§ **[25]** 6. Voting booths and enrollment boxes. The custodian of primary records shall cause at least two voting booths of the same kind and description as voting booths used at general elections, to be erected in each place of registration before the first day of registration in each year, and such booths shall be and remain in said places of registration during the registration at the **[four]** regular meetings for registration during that year; and it shall be the duty of the custodian of primary records to furnish in each voting booth so erected the same articles as are required by law to be placed therein for a general election, which articles shall remain therein during such registration. He shall also provide in like manner one enrollment box in each place of registration of sufficient capacity to hold all the enrollment blanks and envelopes which are to be furnished for such place of registration, which shall be similar to the ballot boxes prescribed by law to be used at a general election. *He shall also in like manner provide at each polling place on general election day, in election districts in which personal registration is not required, two such*



*voting booths, for the enrollment of voters, the needed articles therefor, and an enrollment box, as above provided.*

§ 8. Section twenty-six of such chapter is hereby renumbered section seven, inserted in article two as a part thereof and amended to read as follows:

§ [26] 7. Enrollment blanks and envelopes. There shall also be prepared and distributed by the custodian of primary records in the manner and at public expense as provided in this chapter for the furnishing of official ballots, such a number of enrollment blanks and envelopes for each election district [to the primary elections of which this article is applicable], as will exceed by two hundred the total number of voters registered in such district [at the last preceding general election]. The enrollment blanks shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks to be filled in in type so far as possible:

“ Primary enrollment for the year ..... City (or village or town) of ..... ; county of ..... ; ..... assembly district (or ward or town); ..... election district; enrollment number .....

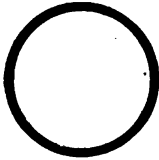
Name of voter .....

“ I, ....., who have placed a mark underneath the party emblem hereunder of my choice, do solemnly declare that I have this day registered as a voter for the next ensuing election, (*or, in election districts in which personal registration is not required, that I have this day voted in the above election district*) and that I am a qualified voter of the election district in which I have so registered (*or voted*), and that my residence address is as stated by me at the time I so registered (*or, in election districts in which personal registration is not required, a statement of the voter's present address*); that I am in general sympathy with the principles of the party which I have designated by my mark hereunder; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices, and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last [year] January. The word ‘party’ as used herein means a political or-

ganization which at the last preceding election of a governor, polled at least ten thousand votes for governor.

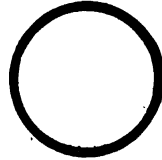
.....Party.

(Insert emblem.)



.....Party.

(Insert emblem.)



“Make a cross X mark, with a pencil having black lead, in the circle under the emblem of the party with which you wish to enroll, for the purpose of participating in its primary elections during the next year.”

The circles underneath the emblems shall be one inch in diameter, and in them nothing shall be printed. The party emblems shall be the same as those which were on the ballots for each party respectively at the last preceding general election, and such emblems shall be so arranged on each blank that the emblem of the majority party at the last preceding general election of a governor shall be first, and the other emblems shall follow in order in accordance with the vote cast for such office at such election; over each emblem shall be printed, in type clearly legible, the name of the party represented by such emblem. The enrollment blanks shall have thereon only the emblems of those parties to which this article is applicable and shall be distributed inclosed within the enrollment envelopes having corresponding enrollment numbers. The enrollment envelopes shall be of such size as to permit inclosure therein, without folding, of the enrollment blank, and of such weight and texture of paper as to make it impossible to read or decipher the printed matter on the blank when the same is sealed on the inside thereof. Nothing shall be printed or written upon the enrollment envelopes, except the following words, or the substance thereof, blanks to be filled in in type as far as possible:

“Primary enrollment for year ..... City (or village or town) of.....; county of.....; ..... assembly district (or ward or town); ..... election district.”

§ 9. Section twenty-seven of such chapter is hereby renumbered section eight, inserted as a part of article two thereof and amended to read as follows:

§ [27] 8. Delivery of enrollment blanks to voters *who register personally*. When, in any [city or village to which this article is applicable,] *political subdivision of the state, a voter shall, at any of the [four] regular meetings for registration in any year, present himself personally, for registration, to the board of election inspectors in any election district, his name and residence address shall be entered at the proper place in the two original enrollment books for that district. After he shall have been registered as a qualified voter of that election district for the next ensuing general election, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the place of registration, enter his [registration] enrollment number, beginning with number one for the first voter [registered] enrolled on the first day, and so on in numerical order, opposite his name, in the first column of the registration books and the enrollment books, and shall write the name of the voter on the blank having the enrollment number which shall be opposite his name on the registration and enrollment books, and shall fill in the other blank spaces on the enrollment envelope and blank, and shall deliver to such voter the enrollment envelope and the blank having his name on it. No voter shall be given more than two sets of enrollment blanks and envelopes in any event, nor more than one set unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him, the member of the board of election inspectors in charge of the enrollment books shall draw a line through such voter's enrollment number in the first column in said enrollment and registration books [and of the registration books] and shall insert in such space in said columns the number which shall be upon the new set to be given him, which number shall always be the lowest number of the enrollment blanks and envelopes then unused in such [booth] election district. The procedure specified in this section shall also apply to an election district comprising territory partly within and partly outside of a village in which personal registration is required.*

§ 10. Such chapter is hereby amended by inserting therein a new section, to be section nine thereof, to read as follows:

§ 9. *Delivery of enrollment blanks to voters where registration is not personal. When, in any town, or village in which personal registration by certain of the voters is not required, or in an election district a part of which comprises territory in which such personal registration is not required, a voter who was not registered personally shall present himself to the board of election inspectors in any election district for the purpose of receiving an official ballot to be voted thereat, his name and residence shall be entered at the proper place in the original enrollment books for that district. After he shall have voted, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the polling place, write his name on the enrollment blank and envelope having the lowest number of the blanks then unused in such election district, shall fill in the other blank spaces on such enrollment blank and envelope, deliver to him the enrollment envelope and the blank having his name on it, and enter opposite his name in the first column of the registration and enrollment books the number on the blank delivered to him. No voter shall be given more than two sets of blanks and envelopes in any event, nor more than one set, unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him the member of the board of election inspectors in charge of the enrollment books shall draw a line through such voter's enrollment number in the first column in said registration and enrollment books, and shall insert in such space in such column the number which shall be upon the new set to be given him, which number shall also be the lowest number on the enrollment blanks then unused in such election district. Enrollment blanks shall be numbered consecutively, beginning with the one succeeding the last number used on the last preceding day of registration.*

§ 11. Section twenty-eight of such chapter is hereby renumbered section ten, inserted as a part of article two thereof and amended to read as follows:

§ [28] 10. Enrollment by voters. Such voter desiring to enroll shall then enter a voting booth in said place of registration or

*polling place*, and, after having closed the door thereof, may make a cross X mark with a pencil having black lead in the circle underneath the emblem of the party of his selection and thereupon inclose said enrollment blank in said envelope and seal the same, and, before leaving the place of registration *or polling place*, shall forthwith deposit the same in the enrollment box in said place of registration *or polling place* in the presence of the inspectors of election, without in any way indicating the party with which he has or has not enrolled, and the inspectors shall thereupon enter in the enrollment books in the fifth column thereof the word "yes." If a voter declines to enroll, he may return the blank and envelope to the inspector in charge of the enrollment box, and such inspector shall seal said envelope with the blank therein, indorse the name of such voter thereon and deposit the same in the enrollment box; and a like entry shall be made opposite his name in the fifth column of the enrollment books. The entries in the enrollment *and registration* books required by this and the *two* preceding sections *shall be made by a member of the board designated by the chairman.*

One mark crossing another mark at any angle within the circle shall be deemed a cross mark within the meaning of this article.

§ 12. Section twenty-nine of such chapter is hereby renumbered section eleven, inserted as a part of article two thereof and amended to read as follows:

§ [29] 11. Examination, sealing and custody of enrollment boxes. *Before the entry of any enrollment number or the delivery of an enrollment blank and envelope to any voter,* [shall be registered in any year, the said enrollment box shall be examined by the board of election inspectors and when empty shall be locked and sealed by them in such a manner that should it be opened such seal would be broken; and the same shall remain so locked and sealed until the same shall be opened by the custodian of primary records [after the next ensuing general election], as hereinafter provided. Said boxes shall be in the charge and keeping of the custodian of primary records at all times except during [the] hours of [registration as prescribed by law] *enrollment.*

§ 13. Section thirty of such chapter is hereby renumbered section twelve, inserted as a part of article two thereof and amended to read as follows:

§ [30] 12. Certification and secrecy of enrollment *where registration is personal*. At the close of the last meeting for registration in each year the board of election inspectors shall severally subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books. Such declarations shall be to the effect that the persons shown by such enrollment books are the only persons who registered *personally* as voters in that district on any of said days of registration, *and shall set forth the number of the last enrollment blank used on such last day of registration*. Immediately upon the close of each day of registration, and before leaving the meeting place, the board of election inspectors shall publicly inclose the said enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district. Such envelope shall remain in the custody of the chairman of the board until the meeting on the next day of registration, when it shall be publicly opened. The envelope sealed at the close of the last day of registration shall, within twenty-four hours thereafter, be delivered to the custodian of primary records. Such envelope shall remain sealed until the next Tuesday following the next ensuing day of general election, *except that in any election district in which personal registration as to certain voters is not required such envelope or comprising territory in which such personal registration is not required shall be returned to the board of inspectors before the opening of the polls on the day of general election, to be by them opened and used, and again delivered to the custodian of primary records as prescribed in section thirteen*. No member of the board of election inspectors shall make, or allow to be made, a copy of, or a transcript or statement from, the enrollment books. No person shall, on any of such days of registration or in the interval between any such day and the next ensuing day of general election, reveal or disclose the names or number of the enrolled voters, or make, publish or circulate a list of such names, or of any thereof, or do or permit any act by which the name of any voter who may or may not have enrolled, or the number of voters enrolled or not enrolled, shall be disclosed.

§ 14. Such chapter is hereby amended by inserting therein a new section, to be section thirteen thereof, to read as follows:

§ 13. *Certification and secrecy of enrollment where registration is not personal.* At the close of the day of general election or on the following day in each year the board of election inspectors, where personal registration as to certain voters is not required, shall severally subscribe and verify duplicate declarations, one of which shall be printed on and attached to each of the original enrollment books. Such declaration shall be to the effect that the persons shown by such enrollment books whose enrollment number is higher than the last number used on the last preceding day of registration are the only persons who voted in that district at such general election who were not registered personally. They shall inclose such enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district, and shall within forty-eight hours after the close of such general election deliver the same to the custodian of primary records. Such envelope shall remain sealed until the following Tuesday. No member of the board of election inspectors shall make, or allow to be made, a copy of or a transcript or statement from the enrollment books.

§ 15. Section thirty-one of such chapter is hereby renumbered section fourteen, inserted as a part of article two thereof and amended to read as follows:

§ [31] 14. Opening of enrollment box and completion of enrollment. It shall be the duty of the board of [primary] inspectors, or one of them, after the final [meeting for registration in each year, and at the same time that he delivers the registration] delivery of enrollment books, to deliver the enrollment box to the custodian of primary records. All enrollment envelopes contained therein shall remain in such box, and the said box shall not be opened nor shall any of the envelopes be opened or removed therefrom until the Tuesday following the [next succeeding] day of general election in that year. Such box shall then be opened by the custodian of primary records, and the envelopes contained therein shall be removed therefrom and opened by said custodian, and the name of the party designated by each

voter under such declaration shall be by said custodian entered against the name of such voter in the sixth column of the enrollment books for the election district in which such voter resides. Such enrollment shall be completed before the succeeding fifteenth day of February in each year. If cross marks are found in more than one of the circles, or if no cross marks are found in any of the circles, on any enrollment blank, the voter who used the enrollment blank thus deficient shall not be deemed to be enrolled, and words indicating the reason why such enrollment is not transcribed shall be entered in said sixth column of the enrollment books against the name of such voter. When all of the enrollments shall be transcribed from the blanks to the enrollment books, the custodian of primary records shall subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books, which declaration shall be to the effect that he has correctly and properly transcribed the enrollment indicated on the blank of each voter to the enrollment books, as herein provided.

§ 16. Such chapter is hereby amended by inserting therein a new section, to be section fifteen thereof, to read as follows:

§ 15. *Enrollment in the year nineteen hundred and eleven. In each election district of the state where no enrollment of the members of political parties was required to be made in accordance with the provisions of the election law in the year nineteen hundred and ten, the boards of primary inspectors shall meet in their election districts respectively from twelve o'clock noon until nine o'clock post meridian on the twenty-second day of July, nineteen hundred and eleven, and the twenty-fifth day of July, nineteen hundred and eleven, for the purpose of making such enrollment. The members of said boards shall receive the same compensation as for a day of registration and such compensation shall be paid to them by the same officials and in the same manner as for a day of registration. Such boards of primary inspectors at such meetings shall make an enrollment of party voters in the manner herein prescribed. In the election districts where there has been no party enrollment they shall place upon the enrollment books the names of all voters who shall appear in person before the said board and fill out and file with it an enrollment blank which shall be printed*



*in substantially the same form as the blanks prescribed in section seven of this act. At the conclusion of such enrollment on the twenty-fifth day of July the said boards of primary inspectors shall cause to be mailed to their several post-office addresses enrollment blanks to all voters whose names appear upon the registration lists but not upon the enrollment books, with the following instructions printed across the top thereof: "Fill out and return on or before the twenty-ninth day of July, nineteen hundred and eleven, to....., chairman board of primary inspectors, town of ....., or ..... election district, ..... (here insert the number of the assembly district or ward or the name of the town or village if any) at..... (here insert the post-office address, with street and number, if any, of chairman of the board of primary inspectors)." The names of enrolled voters contained in such blanks as shall be mailed on or before the twenty-ninth day of July, nineteen hundred and eleven, and when received by the chairman of the board of primary inspectors, shall be added to the enrollment books. The names of party voters thus enrolled shall be arranged alphabetically upon the enrollment books and such enrollment books on and after the tenth day of August, nineteen hundred and eleven, shall become the enrollment books for the primary elections to be held in the year nineteen hundred and eleven and shall be subject to the provisions of this chapter applying to enrollment books of party voters. The enrollment books and blanks for the enrollment of party voters required by this chapter to be printed by the custodian of primary records, shall be furnished in the year nineteen hundred and eleven, on or before the nineteenth day of July of said year.*

§ 17. Section thirty-six of such chapter is hereby renumbered section sixteen, inserted as a part of article two thereof and amended to read as follows:

§ [36] 16. Duplicate enrollment books. The custodian of primary records shall annually provide a true copy [of the enrollment books], duly certified, for each party [to which this article shall then be applicable, provided that in cities containing a population of one million or over and in cities containing a population of not less than fifty thousand and not more than three hundred thousand such copies shall be only] of so much of the said enroll-

ment books as will give the names, addresses and political affiliation of each voter [ , and the certificate attached to each said copy shall be qualified to meet the requirements of this proviso]. The said custodian shall, in the month of February of each year, deliver one such certified copy to the chairman of the proper general committee of each such party. Such certified copies shall conform in all respects to the form of the original enrollment books, or to the portion transcribed, as the case may be, [ , and all entries in such original enrollment books, completed to February fifteenth, when such books are prepared for election districts outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, a city containing a population of one million or over, shall be transferred thereto. The custodian of primary records shall, whenever requested so to do by the chairman of the proper general committee of any party to which this article is applicable and upon the delivery to him of that party's certified copy of the enrollment books for any election district, of a city or village other than a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over make such additions thereto and changes therein as may be necessary to cause the same to conform to the original enrollment books of that election district, completed to the fifteenth day of the month during which such request is made, and shall, as promptly as possible, return the same to such chairman or his duly authorized representative, accompanied by a supplemental certificate showing that each such copy is a correct copy of the original as of such date.] The custodian of primary records [within a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over] shall certify to such chairman that each such copy is a correct transcript [of] from the original enrollment book, made during the [four] days of registration of voters for or at the preceding general election.

§ 18. Section thirty-eight of such chapter is hereby renumbered section seventeen and inserted unchanged as a part of article two thereof, to read as follows:

§ [38] 17. Use of original enrollment books at official primaries. The original enrollment books shall be used at all official

primary elections, and shall be delivered by the custodian of primary records to the proper boards of election inspectors immediately before the opening of the polls on each official primary day, and shall be returned to such custodian forthwith, after the completion of the canvass of the votes. Such enrollment books shall go into effect on the first day of January following the days of registration on which they are begun, and shall, with any additions or charges made as herein provided, remain in force until the first day of the following January, when they shall be superseded by the new enrollment books, as herein provided.

§ 19. Section thirty-nine of such chapter is hereby renumbered section eighteen, inserted as a part of article two thereof and amended to read as follows:

§ [39] 18. Right to enroll and vote at primaries. No voter who has once enrolled in a political party shall be permitted to enroll in another political party before the first day of the next [four days of] registration. [Except as otherwise expressly provided in this article,] Only voters enrolled as [herein] provided in this article shall be entitled to participate in the official primary elections of their respective parties. [No voter who has registered in the preceding year shall be allowed to enroll in any election district other than that in which he was so registered, unless the custodian of primary records shall find that he was so registered in such other election district.] No voter shall take part in any primary election of any party other than the party in which he shall at the time be enrolled.

§ 20. Section forty of such chapter is hereby renumbered section nineteen, inserted unchanged as a part of article two thereof, to read as follows:

§ [40] 19. New enrollment books for changed districts. In case, in the interval between the days of registration and an official primary day in the succeeding year, a new election district shall be created, or the boundaries of an election district, or the number of any ward or assembly district, shall be changed, the custodian of primary records shall, at least thirty days prior to such official primary day, prepare two new enrollment books for such district, or properly renumber the enrollment books for such ward or assembly district, which enrollment book shall be in the same form and exhibit the same facts as the enrollment books then

in force in the territory comprised within such new or changed district, or renumbered ward or assembly district, but shall contain only the names of all the voters, who as shown by the enrollment books then in force in such territory are the enrolled voters of the respective political parties resident within such new or changed election district, or renumbered ward or assembly district. And in that event such new enrollment books shall supersede the enrollment books then in force in such territory, and the custodian of primary records shall be charged with the same duties concerning the same and any duplicate sets thereof or transcripts therefrom as are herein provided for with respect to the enrollment books begun on the days of registration.

§ 21. Section forty-one of such chapter is hereby renumbered section twenty, inserted as a part of article two thereof and amended to read as follows:

§ [41] 20. Enrollment books to be public records; transcripts of enrollment. The enrollment books herein provided for and any declarations filed on enrollment shall be public records, and shall be open to inspection and copying at any time by any person, except for the period during which they are required to remain sealed as herein provided. It shall be the duty of the custodian of primary records to certify to the correctness of any transcript of such enrollment books, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript. Wherever the custodian of primary records is a salaried officer, the fees received by him for certifying such transcripts shall be paid into the public treasury. Such a certified transcript, containing the name and showing the enrollment of any voter, shall be sufficient evidence of such enrollment. The custodian of primary records shall give to any voter enrolled or transferred as in this article provided, a certificate of enrollment or of transfer, which shall specify the name of the party with which he is enrolled, the date of enrollment or transfer, and the election district in which such voter is enrolled. [The] Declarations and enrollment blanks filed by voters [at the time of registration or in the special enrollment] shall be public records and shall be kept on file until one year thereafter. No person shall be required to enroll, nor shall his failure to do so affect his right to register for the purpose of voting at any election.

§ 22. Section forty-two of such chapter is hereby renumbered section twenty-one, inserted as a part of article two thereof and amended to read as follows:

§ [42] 21. Publication of enrollment. [in cities of one million inhabitants. In a city containing a population of one million or over, the] *The* public officer or board at the time charged with the duty of publishing the registration lists of voters in [such] a city or county shall, between the fifteenth day of December and the [first] *fifteenth* day of [January] *February*, cause to be published in like manner and at public expense a transcript of the enrollment books of each election district in such city or county, omitting all entries except the names, the residence addresses, and the party, if any, recorded opposite the respective names. The custodian of primary records shall provide such transcript for publication.

§ 23. Section forty-three of such chapter is hereby renumbered section twenty-two, inserted as a part of article two thereof and amended to read as follows:

§ [43] 22. Judicial review of enrollment [in cities of one million inhabitants. This section shall apply only to cities containing a population of one million or over]. If any statement in the declaration of any person, on the evidence of which his name was enrolled in the original enrollment books for any election district by the custodian of primary records, or if entry opposite the name of any person in such enrollment books is false, or if any person enrolled in such enrollment books has died, or has removed from or no longer resides in such election district, any voter of the assembly district in which such election district is located (provided such voter is himself duly enrolled with the same political party with which the person, as to whom the application is made, was enrolled) may present proof thereof by affidavit to the supreme court, or to any justice thereof, in the judicial district, or to a county judge of the county in which such election district is located. And thereupon such court, justice or judge shall make an order requiring the person against or as to whom the proceeding is instituted, unless he is shown to have died, as hereinafter provided, to show cause before such court, justice or judge, at time and place specified in such order, why his name

should not be stricken from such enrollment book. Such order shall be returnable on a day at least ten days before a primary election, and a copy thereof shall be served on the person against whom the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof, either personally or by depositing the same in the post-office of the city in which such election district is located, in a postpaid wrapper or envelope addressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment books for such election district. If the person as to whose name the application is made is claimed to be dead, the order to show cause hereinabove provided for shall be directed to the custodian of primary records, and service thereof need only be made upon such custodian of primary records, such service to be made in the manner heretofore in this section specified; but an order requiring the custodian of primary records to show cause why the name of a person claimed to be dead should not be stricken from the enrollment books shall not be made unless the affidavit presented to the court, justice or judge by the voter instituting the proceeding shall state that such voter has personal knowledge of the death of the person with respect to whose name the application is made and unless such affidavit is substantiated either by a certificate of the health department or by other competent evidence of such death. The custodian of primary records shall produce before the court, justice or judge, the original enrollment declaration subscribed by the person against or as to whom the proceeding is instituted. The court, justice or judge shall hear the persons interested, and if it appears by sufficient evidence that any statement in the declaration of the person against whom the proceeding is instituted, on the evidence of which he was enrolled by the custodian of primary records, or any statement opposite his name in the original enrollment books, is false, or that such person is dead or has removed from or no longer resides in the election district for which he is enrolled, shall order the name of such person stricken from the enrollment books, except as hereinafter provided. If at such hearing the person against whom the proceeding is instituted shall produce evi-

dence that the custodian of primary records has incorrectly copied into the enrollment books the data contained in the declaration of such person, and that if correctly copied such person would be entitled to be enrolled in such election district, such order, instead of requiring his name to be stricken from the enrollment books, shall require the correction of the enrollment books in accordance with such evidence. In either case the order shall require the custodian of primary records to strike such name from the enrollment books, or to otherwise correct such enrollment books in accordance with such order. Upon the correction of such enrollment books in accordance with such order, the custodian of primary records shall certify such correction to the chairman of the general committee of each party to whom a duplicate set of enrollment books has been delivered in pursuance of section [thirty-six] sixteen of this [article] chapter.

§ 24. Section forty-four of such chapter is hereby renumbered section twenty-three, inserted as a part of article two thereof and amended to read as follows:

§ [44] 23. Correction of enrollment [in cities of one million inhabitants,] with respect to persons not in sympathy with party. [This section shall apply only to cities containing a population of one million or over.] If any person is not in sympathy with the principles of the political party with which such person is enrolled, any voter of the assembly district in which such election district is located (provided such voter is himself duly enrolled with the same political party with which the person as to whom the application is made was enrolled) may present proof thereof by affidavit to the chairman of the county general committee of the political party with which the voter enrolled, and the chairman of such county general committee shall issue a notice requiring the person against or as to whom the proceeding is instituted to show cause before such chairman of the county general committee, or a subcommittee appointed by such chairman, at a time and place specified in such notice why his name should not be stricken from such enrollment books. Such notice shall be returnable on a day at least fifteen days before a primary election, and a copy of the affidavit shall be served on the person against whom the proceeding is instituted and on the custodian of primary records

at least forty-eight hours before the return thereof, either personally or by depositing the same in the post-office of the city in which such election district is located, in a postpaid wrapper or envelope addressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment books for such election district. The chairman of such committee shall in his discretion personally hear the persons interested in the proceeding or appoint a subcommittee to take testimony, and in such event the action of the subcommittee shall not be final unless approved of by the chairman of such county general committee, and if it appears by sufficient evidence that such person is not in sympathy with the principles of the political party with which such person enrolled, the chairman of the county general committee shall cause to be filed a certificate with the board of elections or with the custodian of primary records setting forth reasons why the name of such person shall be stricken from the enrollment books, together with a record of the proceedings had in the matter. It shall be the duty of the board of elections or the custodian of primary records to make application to the supreme court or to any justice thereof in the judicial district, or to a county judge of the county, in which such election district is located, for an order requiring the person against or as to whom the proceeding is instituted to show cause before such court, justice or judge, at a time and place specified in such order, why the decision of the chairman of such county general committee should not be confirmed. Such order shall be returnable on a day at least five days before a primary election, and a copy thereof shall be served on the person against whom the proceeding is instituted at least forty-eight hours before the return thereof in the manner hereinbefore provided. *The said court, justice or judge shall have power to examine fully into the proceedings taken before such chairman or subcommittee and to receive affidavits or other evidence as to the manner in which such proceedings were conducted, and shall determine whether or not said proceeding was fairly conducted and the finding made therein was made upon sufficient grounds upon the merits, and he may approve or disapprove such finding as shall seem to him to be required to do substantial justice to the party*



*against whom the proceeding was instituted and without regard to technical requirements.* The court, justice or judge upon approving of the finding of the chairman of such county general committee shall issue an order to the board of elections or to the custodian of primary records requiring the name of the voter to be stricken from the enrollment books.

§ 25. The schedule of sections to article three of such chapter is hereby amended to read as follows:

### ARTICLE 3.

**[ENROLLMENTS AND PRIMARIES IN CITIES AND IN VILLAGES HAVING FIVE THOUSAND INHABITANTS OR MORE.] PARTY ORGANIZATION.**

**[Section 20.** Application of article.

21. Definitions and construction.
22. Enrollment books.
23. Enrollment books except in cities of one million inhabitants and of second class.
24. Enrollment books in cities of one million inhabitants and of second class.
25. Voting booths and enrollment boxes.
26. Enrollment blanks and envelopes.
27. Delivery of enrollment blanks to voters.
28. Enrollment by voters.
29. Examination, sealing and custody of enrollment boxes.
30. Certification and secrecy of enrollment.
31. Opening of enrollment box and completion of enrollment.
32. Special enrollment.
33. Special enrollment for annexed territory.
34. Special enrollment upon becoming of age.
35. Special enrollment after moving.
36. Duplicate enrollment books.
37. Use of duplicate enrollment books at unofficial primaries.
38. Use of original enrollment books at official primaries.
39. Right to enroll and vote at primaries.

- Section
40. New enrollment books for changed districts.
  41. Enrollment books to be public records; transcripts of enrollment.
  42. Publication of enrollment in cities of one million inhabitants.
  43. Judicial review of enrollment in cities of one million inhabitants.
  44. Correction of enrollment in cities of one million inhabitants, with respect to persons not in sympathy with party.
  45. Times and purposes of official primaries.
  46. Congressional primaries, and additional primaries in presidential years.
  47. Expense of official primaries.
  48. Primary districts and polling places.
  49. Notice of primaries; hours of voting.
  50. Unofficial primaries.
  51. Restrictions as to place of primaries.
  52. Primary election officers.
  53. Appointment and removal of primary election officers.
  54. Chairman; compensation of inspectors; oath.
  55. Ballots, booth and supplies.
  56. Voting at official primary elections.
  57. Challenges at official primary elections.
  58. Persons within the guard-rail.
  59. Watchers; challengers; electioneering.
  60. Canvass of votes.
  61. Proclamation and statement of result.
  62. Certificates of election; preservation of ballots.
  63. Canvass of statements of result.
  64. Committees, and rules and regulations of parties.
  65. Organization of committees and adoption of rules.
  66. Conventions; apportionment of delegates.
  67. Organization of conventions.
  68. Contested seats.
  69. Substitution of delegates; date of convention.

- Section 70. Jurisdiction of, and review by, the courts.
71. Direct nomination of candidates at primary elections.
72. Application of this article to political parties.
73. Application of this article to cities of the third class and villages.
74. Perjury.】
35. *Party committees.*
36. *State committee.*
37. *County and other committees.*
38. *Organization and rules of committees.*
39. *Review of election of committees.*
40. *Removal of member of committee.*

§ 26. Such chapter is hereby amended by inserting in article three thereof six new sections, to be known as sections thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine and forty, to read as follows:

§ 35. *Party committees.* *Party committees shall consist of a state committee, judicial district committees, congressional district committees, senatorial district committees, assembly district committees, county committees, city committees, borough committees, together with such subcommittees, or executive or campaign committees, appointed by such state or other committees as herein provided for, and also such other committees as may be provided for by the rules and regulations of the party desiring such additional committees.*

§ 36. *State committee.* *The state committee shall consist of such number, and elected from such units of representation, as the respective parties shall provide, by rules and regulations adopted at the state convention when state officers are to be nominated by the delegates to such state convention from the several units of representation subject to the approval of such state convention; and until the adoption of such rules and regulations by any party, the number of members of state committees, and the units of representation therefor, of the respective parties shall continue as they now exist under the present rules and regulations of such parties.*

*Each member of the state committee shall be a resident of the unit of representation he is elected to represent, or of the county of which such unit of representation is a part.*

*Members of state committees shall hold office until the holding of the next state convention for nominating state officers, except in years when a president is to be nominated, in which years they shall be elected at the convention held under the provisions of section fifty-three of this act, and shall hold office until the convention for the purpose of nominating state officers, two years thereafter. In case of the death, declination, disqualification or removal from office of a member of the state committee or the failure to elect a member as by reason of a tie vote, the vacancy in the state committee caused thereby shall be filled by the remaining members of the state committee. The state committee of each political party shall have power and authority to designate the time and place of holding the state convention of such political party, and shall have authority to fill all vacancies caused by the death, declination or disqualification of any candidate who is nominated by the state convention, or if any certificate of nomination is found to be defective, or not wholly void, to make and file a new certificate with the secretary of state, such nominations to fill vacancies or the making of new certificates to cure irregularities in those formerly filed, to be done and performed in the manner provided for in section one hundred and thirty-five of this act as to vacancies in nominations for public office or curing defects in certificates of nominations.*

*§ 37. County and other committees. Members of the county, judicial, senatorial district, congressional district, assembly district, city, borough, aldermanic district and municipal court district, shall be elected at primary elections as herein provided for.*

*Members of the county committee shall consist of such number and elected from such units of representation as the rules and regulations of the party may provide excepting that there shall be at least one member of such committee from each election district in the county.*

*Where a judicial district, senatorial district, congressional district, assembly district, aldermanic district, municipal court district, city or borough is coterminous with or less than the limits of*

*but wholly within an entire county, the members of the county committee from such judicial district, senatorial district, congressional district, assembly district, aldermanic district, municipal court district, city or borough shall constitute the judicial district, senatorial district, congressional district, assembly district, aldermanic district, municipal court district, city or borough committee, unless otherwise provided for by the rules of the party.*

*In case a judicial, congressional, senatorial or assembly district consist of more than one county, the judicial, congressional, senatorial and assembly committee shall be composed of the chairmen and secretaries of the county committees of the parties of the counties comprised in such political division.*

§ 38. *Organization and rules of committees. Every party committee, including the state committee, shall within ten days after their election meet and organize by the election of a chairman and secretary, and such other officers as its rules may provide, and within three days file with the secretary of state a certificate, stating the names and post-office address of the chairmen and secretaries so elected. Every party committee shall have the power to designate and appoint such subcommittees as it deems proper, including a committee to conduct a campaign or election for such party, which latter committees may be composed, in whole or in part, of persons not members of the committee by whom they are appointed.*

*Each committee may, and each state and county committee must, prepare rules and regulations for the government of the party and the conduct of the official primaries within its political subdivision, which may include the payment of dues. Within three days after the adoption of such rules and regulations a certified copy of the same shall be prepared and filed by the secretary with the custodian of primary records for that political subdivision with whom the name of such committee was filed. Such rules shall continue to be the rules and regulations for that committee until they are amended or new rules adopted. Such rules and regulations may be amended from time to time by a majority vote of the committee upon the following notice:*

*A copy of the proposed amendment shall be sent with the notice of the meeting at which such amendments are to be proposed, such*

notice to be not less than five days before such meeting, and to be mailed to the post-office address of each member of the committee. Until the adoption of such rules and regulations, the rules and regulations of the existing committee, so far as consistent with this chapter, shall continue to be the rules and regulations of the party for that political subdivision.

§ 39. *Review of election of committees.* The election of members to any party committee may be reviewed by summary proceedings before the supreme court or a justice thereof, as provided for in section seventy of this act, upon the petition of any person qualified to vote at the primary election of the party which such committee represents.

§ 40. *Removal of member of committee.* A member of a party committee may be removed by such committee, for disloyalty to the party or corruption in office, after notice and a hearing upon written charges, to be heard by the committee or a subcommittee thereof appointed for that purpose, which shall report its findings to the full committee. The action of any committee in removing a member thereof as herein provided for may be reviewed in a summary proceeding before the supreme court or by a justice thereof, upon a petition of the person so removed.

§ 27. The schedule of sections to article four of such chapter is hereby amended to read as follows:

#### ARTICLE 4.

**[ENROLLMENTS AND PRIMARIES IN TOWNS] DESIGNATION OF CANDIDATES FOR PARTY NOMINATIONS OR FOR ELECTION TO PARTY POSITIONS.**

Section **[90.** Territory excepted from operation of article.

91. Application of article.

92. Enrollment books.

93. Entries in enrollment books; duties of election officers.

94. Special enrollments; correction of enrollment lists.

95. Special enrollment upon becoming of age.

96. Special enrollment after moving.

97. County clerks to compile enrollment lists.

98. Enrollment lists, when to take effect.

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Section 99. Who may be enrolled.

100. Enrollment lists and statements to be public records; certified copies.

101. Conduct of primary elections; challenges.

102. Judicial review.

103. Expense a town charge.

104. Penalty. ]

45. *Direct nomination of candidates for certain public offices; election of delegates; eligibility.*

46. *Delegates to national conventions.*

47. *Presidential electors.*

48. *Special provision for the year nineteen hundred and eleven.*

49. *Contests; judicial review.*

§ 28. Such chapter is hereby amended by inserting in article four thereof five new sections, to be known as sections forty-five, forty-six forty-seven, forty-eight and forty-nine, to read as follows:

§ 45. *Direct nomination of candidates for certain public offices; election of delegates; eligibility.* 1. *Party nominations of candidates for a public office can only be made by a convention or at a primary of the political party.*

2. *Party nominations for officers to be voted for by all the voters of the state shall be made by conventions composed of delegates selected in the manner provided for in this article.*

3. *Party nominations for an office to be voted for by all the voters of the state, in a year when a governor of the state is not to be elected, or to fill vacancies caused by the death, declination or disqualification of the person nominated for an office at a state convention, shall be made by the state committee of the respective parties, unless otherwise provided for by the rules and regulations made by the state convention of the party desiring such nominations or the filling of vacancies to be otherwise made.*

4. *Nominations by a political party for state senator, member of assembly and member of a board of aldermen or common council of a city shall be made at the primary election herein provided for. All other nominations by a political party shall be made by convention composed of delegates selected in the manner*

*provided for in this article except that party nominations for town, ward and village officers and for the office of school director shall be made in the manner prescribed by rules to be adopted by the party committee of the county wherein such town, village or school district is located, and of the city committee wherein such ward is located.*

*5. Party nominations for an office to be voted for at a special election shall be made in the manner prescribed by the rules and regulations of the respective parties.*

*§ 46. Delegates to national conventions. The rules and regulations of each political party may prescribe that the delegates to a national convention of that party shall be elected either at state conventions held by such party or from congressional districts, or partly by state conventions and partly from congressional districts, In each year when a president and vice-president of the United States are to be elected, there shall be a primary election for the choice of delegates to the national convention on the last Tuesday in March of such year. In case the rules and regulations of a political party provide for the election of delegates to a national convention by a state convention the enrolled electors of such political party shall elect the delegates to such state convention from such political subdivision as the rules and regulations of the party may provide. In case the rules and regulations of the party provide for the election of delegates and alternates from congressional districts to the national convention, the enrolled electors of such political party in the several congressional districts shall elect the delegates and alternates from such congressional districts at the primary herein provided for that purpose.*

*The primary elections held on the last Tuesday of March in each year, as herein provided for, for the election of delegates to a state convention to elect delegates and alternates to a national convention, or to elect delegates and alternate delegates from such congressional district to a national convention shall be subject to all the provisions of this chapter for the conduct of primary elections on the annual primary day.*

*§ 47. Presidential electors. In each year when a president of the United States is to be elected, candidates for the office of elector for president and vice-president of the United States shall*



be nominated by the state committee of each of the parties to which this act applies, one for each congressional district, and two at large. The candidates so nominated shall be certified to the secretary of state in the same manner as party nominations for state offices.

§ 48. Special provision for the year nineteen hundred and eleven. Party committees now existing, which under existing rules and regulations of a party are charged with the general care and supervision of the affairs of the party within a specified political division, and such new committees as may be constituted prior to the fall primary in the year nineteen hundred and eleven according to duly adopted rules and regulations of any party for the purpose of having such care and supervision within any such political division, may also have and exercise all powers conferred by this chapter upon committees for the same political divisions.

§ 49. Contests; judicial review. Any action or neglect of the officers or members of a political convention or committee, or of any inspector of primary election, or of any public officer or board with regard to the right of any person to participate in a primary election, convention or committee, or to enroll with any party, or with regard to any right given to or duty prescribed for, any voter, political committee, political convention, officer or board, by this article, shall be reviewable by summary proceedings upon the petition of any person aggrieved thereby, or upon a petition presented by the chairman of any political committee, which summary proceedings may be instituted before the supreme court or a justice thereof within the judicial district where the transaction, act or neglect of duty took place. Such proceedings shall be heard upon such notice as the court or justice thereof shall direct. In reviewing such action or neglect, the court, justice or judge shall consider, but need not be controlled by, any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto, and shall make such decision and order as, under all the facts and circumstances of the case, justice may require. For the purposes of this section, service of any notice or order or other process of the court or justice thereof upon the chairman or secretary of a convention or committee or board whose action is sought to be reviewed or directed shall be sufficient. The action of any custodian of primary records in canvassing and

*certifying the result of any primary election, or of the secretary of state in preparing and certifying the list of delegates to any convention, or members of a state committee, may be reviewed in like manner by the supreme court, or a justice thereof, which by order may make any change in the result of such primary election as certified to by the custodian of primary records, or any change or alteration in the list of delegates or members of a state committee prepared by the secretary of state, as justice may require. The change or alteration so made, if the result is as to the nomination of a candidate for an elective office, the name of the person so adjudged to have received the greatest number of votes at such primary for such elective office shall be placed upon the official ballot as the candidate for the party holding such primary; and any change or alteration so made by the court or the justice thereof in the statement in the list of delegates shall be included in the statement of the list of delegates to be certified by the secretary of state, to the chairman or the secretary of the state committee, or the chairman of such other political committee, as under the provisions of this article, are empowered to call the conventions to which such delegates are elected. Proceedings taken under this article shall have precedence and priority over all other actions and proceedings in the supreme court or before a justice thereof. The court, or a justice thereof, upon such proceeding, shall have the right to subpoena and examine witnesses, or in its discretion to hear and determine the case upon affidavits. In case the court or a justice thereof should find and determine that both parties to the controversy had been guilty of frauds or that the primary has been so permeated by fraud as to render it impossible for him to determine the true result of such primary and who was elected thereat, such court or justice shall have the right to direct the holding of a new primary at the same place and in the same manner as the regular official primary, or in case of a contest over the result of the convention, which has been characterized by such frauds and irregularities as to render it impossible for such court or justice to determine who was rightfully nominated at such convention. to direct the reassembling of such convention upon a date to be fixed by such court or justice for the purpose for which such convention was originally convened. The court, or justice thereof,*

*in case of ordering a new primary, may include in such order directions for the canvassing of the vote of such new primary, and the case of ordering a new convention shall contain directions to the proper party officials as to giving notice to each delegate and alternate delegate to such original convention of the time and place for the reassembling of the convention.*

§ 29. Such chapter is hereby amended by inserting therein a new article to be article four-a thereof, the schedule of which shall read as follows:

#### ARTICLE 4-A.

##### CONDUCT OF PRIMARY ELECTIONS; CANVASS OF RETURNS.

- Section 70. Organization and conduct of official primaries.*  
*71. Qualifications of voters at official primary elections.*  
*72. Challenges at official primary.*  
*73. Expense of official primaries.*  
*74. Primary districts and polling places.*  
*75. Notice of official primary.*  
*76. Restrictions as to place of primaries.*  
*77. Removals from, and filling vacancies in, boards of primary election officers.*  
*78. Primary poll clerks.*  
*79. Ballots, booths and manner of voting.*  
*80. Delivery of ballots and manner of voting.*  
*81. Preparation of ballot by voters.*  
*82. Persons within guard-rail.*  
*83. Watchers; challengers; electioneering.*  
*84. Canvass of votes.*  
*85. Proclamation and statement of result.*  
*86. Certificates of election; preservation of ballots.*  
*87. Canvass of statements of result; certificates of nomination or election.*  
*88. Primaries held to nominate candidates for special elections.*  
*89. Unofficial primaries.*  
*90. Use of duplicate enrollment books at unofficial primaries.*  
*91. Penalty for violations.*  
*92. Perjury.*

Section 93. *Nomination by convention in political subdivisions adopting a proposition therefor.*

§ 30. Such chapter is hereby amended by adding thereto as a part of article four-a a new section to be known as section seventy, and to read as follows:

§ 70. *Organization and conduct of official primaries. 1. Election officials for each election district shall comprise the election officers for the primary election in such election districts.*

2. *All said officers shall take and subscribe the constitutional oath of office, before entering on the discharge of their duties.*

3. *Such primary shall be held open from three o'clock in the afternoon until nine o'clock, post meridian, for voting thereat.*

4. *The primary election officers shall perform the same duties that they are required to perform in a general election, and such additional duties as are in this chapter prescribed and shall receive the same pay as for services on registration day.*

5. *In each year an official primary election shall be held on the seventh Tuesday before the general election; in each year in which a president of the United States is to be elected, an additional official primary election shall be held on the last Tuesday in March.*

§ 31. Such chapter is hereby amended by inserting therein as a part of article four-a thereof a new section to be section seventy-one, and to read as follows:

§ 71. *Qualifications of voters at official primaries. No person shall be entitled to vote at any official primary unless he is duly enrolled and may be qualified to vote on the day of election. The primary election inspectors shall decide all questions that arise relating to the qualifications of voters.*

§ 32. Section fifty-seven of such chapter is hereby renumbered section seventy-two, inserted unchanged as a part of article four-a thereof, to read as follows:

§ [57] 72. *Challenges at official primary elections. The right of an enrolled voter to participate in any official primary election shall be subject to challenge at any time before his ballot is deposited in the ballot box. When any enrolled voter shall be challenged, the chairman, or one of the members, of said board, shall forthwith put to him an oath or affirmation to answer truly such*

questions as shall be put to him, and he shall be allowed to vote if, and only if, he shall make such oath or affirmation, and shall answer in the affirmative each of the following questions: "Are you ..... (using the name which he has given as his name) ?

Do you reside, and have you, for thirty days last past, resided at ..... (giving the address which he has given as his residence) ? "

§ 33. Section forty-seven of such chapter is hereby renumbered section seventy-three, inserted as a part of article four-a thereof, and amended to read as follows:

§ [47] 73. Expense of official primaries. The expense of official primary elections, including the expense of preparing and copying new enrollment books and the compensation herein provided to be paid to primary election officers [inspectors], shall be paid by the same officers or boards [of the city in which said primary is held,] and in the same manner, as the expenses of general elections. *If provisions shall not have been made for the payment of such expense in any year, including the year one thousand nine hundred and eleven, then the officers who are empowered by law to make such provision in any county, city, town or other political subdivision of the state, are hereby authorized and directed to raise money to such an amount as may be necessary, in any manner provided by law for meeting expenses in anticipation of the collection of taxes and to pay such expense therefrom. The amount so raised shall be included in the amount to be raised by tax in the ensuing year.*

§ 34. Section forty-eight of such chapter is hereby renumbered section seventy-four, inserted as a part of article four-a thereof, and amended to read as follows:

§ [48] 74. Primary districts and polling places. [The custodian of primary records shall thirty days before each official primary day, divide every ward or assembly district in a city and every village to which this article is applicable, into primary districts, each of which shall consist of two contiguous election districts, except that in case there is an odd number of election districts in such ward, assembly district or village, the highest numbered election district shall be a primary district by itself.] *Each*

*election district shall constitute a primary district.* There shall be [two] one polling place[s] in each of such primary districts which shall be designated and provided at public expense by the officers or boards whose duty it is to provide polling places for days of general election, and which shall be, so far as [they are] available, the [same] place[s as were] used for the yast preceding general election. [The custodian of primary records shall assign one of the polling places in each primary district to the party which, at the last election of a governor, cast the highest number of votes for governor, and at the other polling place in such primary district there shall be held the primary elections of all other parties.]

§ 35. Section forty-nine of such chapter is hereby renumbered section seventy-five, inserted as a part of article four-a thereof, and amended to read as follows:

§ [49] 75. Notice of official primar[ies]y [hours of voting]. At least [twenty] *thirty-five* days before each official primary day the chairman of the general committee of each party subject to the provisions of this article, shall certify and deliver to the custodian of primary records a statement of the conventions, *the time when and the place where such conventions are to be held, and of the committees and offices for which delegates, members or candidates, as the case may be, are to be elected thereat, and the number of delegates to conventions, and members of committees, to be elected in each unit of representation.* The custodian of primary records shall prepare a notice of each official primary election provided for by this article, and shall publish such notice, not more than [ten] *thirty-five* days and not less than [five] *thirty* days prior to such primary election, in at least one newspaper having a general circulation in the city or village, of the political faith of each of the two parties which, at the last preceding election of a governor, cast the highest and next highest number of votes for governor. Such notice shall specify the day of such primary election, the hours during which it will be held, the location of each polling place, the election districts whose voters may vote at each such polling place, the name of the party or parties whose primary elections will be held thereat, and the conventions, committees and offices for which delegates, members or candidates,

as the case may be, will be voted for thereat. [All official primary elections held in pursuance of this article shall be open from three o'clock in the afternoon to nine o'clock in the evening. All other primary elections, if any, shall be open for not less than four hours, commencing not earlier than three o'clock in the afternoon and ending not later than ten o'clock in the evening.]

§ 36. Section fifty-one of such chapter is hereby renumbered section seventy-six and inserted unchanged as a part of article four-a thereof to read as follows:

§ [51] 76. Restrictions as to place of primaries. No primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.

§ 37. Such chapter is hereby amended by inserting as a part of article four-a a new section, to be known as section seventy-seven thereof, and to read as follows:

§ 77. *Removals from, and filling vacancies in, boards of primary election officers. Removals from boards of primary election officers shall be made, and vacancies occurring in such boards shall be filled, in the same manner as is provided in this chapter for making removals from boards of election officers and for filling vacancies therein on a day of registration.*

§ 38. Such chapter is hereby amended by inserting as a part of article four-a a new section, to be section seventy-eight thereof and to read as follows:

§ 78. *Primary poll-clerks. Each primary poll-clerk at each polling place at an official primary election shall have a poll-book for each party in each election district within the primary district for keeping a list of enrolled voters voting, or offering to vote thereat at the primary election. Each such book shall have columns headed respectively "Number of enrolled voter," "Name of enrolled voter," "Residence of enrolled voter," and "Remarks."*

*As each enrolled voter offers the ballot which he intends to vote to the primary inspector, each primary poll-clerk shall enter in the proper column on his poll-book the number, name and residence of such enrolled voter. Upon the close of the polls of the primary election, the primary poll-clerks and all primary officers*

*shall compare the poll-books with the enrollment books or registers and correct any mistakes found therein.*

§ 39. Section fifty-five of such chapter is hereby renumbered section seventy-nine, inserted as a part of article four-a thereof, and amended to read as follows:

§ [55] 79. Ballots, booths and supplies. The custodian of primary records shall, not later than twenty days prior to the holding of any official primary election provided for in this article, prescribe the size, color, weight and texture of the paper to be used for the ballots at such primary election and prepare samples of such ballots. The colors of the ballots shall be such that those of each party shall be easily distinguishable from those of all the other parties and shall be such that the printing thereon shall be easily legible. The paper shall be of such weight and texture as to make it impossible to read or decipher the printed matter on the inside of the ballot when it shall be folded. Each ballot shall have printed or written upon its face the party name, the assembly district or ward number, if any, the election district number when the election district is a unit of representation, the names of the positions to be filled and the names of the persons to be voted for to fill such positions. The ballot shall be large enough for the printing thereon of a complete set of names for all the positions to be filled at such primary election. All printing thereon shall be in black ink. Such sample ballots shall have the words "sample ballot of the (specifying it) party" printed thereon, and shall be exhibited for inspection during the hours within which the office of such custodian is open for business, and it shall be the duty of such custodian to furnish to each member of the board of primary election inspectors and to any voter applying for the same, a sample of the ballot for each party. The custodian shall also furnish to party committees or to voters, applying therefor, at cost, the paper so designated to be used for ballots. Ballots to be voted on either of the two official primary days may be provided by any person. Ballots not conforming to the provisions of this section shall not be counted at any official primary election. The polling places, voting booths, guard-rails, distance markers, ballot boxes, sample ballots, *poll-books* and other supplies required for official primary elections shall be



provided and paid for by the same officers, and in the same manner, as in the case of general elections, pursuant to sections two hundred and ninety-nine, three hundred, and three hundred and eighteen of this chapter. At all official primary elections a separate box with the name and emblem of the party and with the number of the election district clearly and conspicuously written or printed thereon, shall be provided at each polling place and for each party participating in a primary election at such polling place and for each election district the voters of which vote at such polling place; and there shall also be a large box for the reception of the unvoted ballots. There shall be affixed to the outside of the polling place, and in at least two places on the inside thereof, and in a conspicuous manner, placards, printed with large sized and bold-faced type, which shall specify the name of the party or parties whose primary election is being held in such polling place. It shall be the duty of all primary inspectors to receive, preserve and have at their respective polling places for delivery to voters on any official primary day, all unvoted ballots which may be delivered to them or any of them, by any qualified voter at any time before the closing of the polls on any such primary day.

*The custodian of primary records shall prepare and furnish to each board of primary election inspectors two tally sheet blanks and two statement of result blanks for each political party whose primary election is under the jurisdiction of said board of primary election inspectors. Upon each of said blanks shall be indorsed the name of the party, the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district for which said blank is to be used.*

*Each such tally sheet shall consist of three columns separated from each other by vertical lines running from top to bottom of each page of the tally sheet. In the first column shall be printed the title of each public office for which a candidate is to be nominated, the name of each committee to which members are to be elected, and a description of each convention to which delegates are to be elected. Under the name of each public office for which candidates are to be nominated and on the same page shall be printed, in alphabetical order, the names of all candidates for*

*the nomination therefor. Under the name of each committee and on the same page shall be spaces in which the primary inspectors shall write, in alphabetical order, the names of all candidates for election thereto. Under the description of each convention and on the same page shall be spaces in which the primary inspector shall write, in alphabetical order, the names of all candidates for election as delegates thereto. Each name and each space upon said tally sheet shall be separated from the other names and spaces next thereto by parallel horizontal lines extending from one side of the sheet to the other. The second column upon the tally sheet shall be headed, at the top of each page thereof, "Space for tally as canvass progresses." The third column in like manner shall be headed "Space for total number of votes received by each candidate."*

*Each such statement of result sheet shall consist of two columns separated from each other by a vertical line running from top to bottom of each page of the sheet. In the first column shall be printed the title of each public office, the name of each committee, and the description of each convention to which delegates are to be elected, and the names of all the candidates therefor, which shall be printed in the same manner and order as upon the tally sheet in the first column thereof. All names shall be separated from each other by parallel horizontal lines. At the head of each statement of result sheet shall be printed the following: "Statement of result of the vote cast at the official primary election held on the . . . day of . . . . . (the blanks being properly filled)." and there shall also be printed the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district. At the foot of each such statement of result sheet shall appear the following certificate to be signed by the primary election inspectors: "We hereby certify that the foregoing statement of result is true and correct in all respects.*

.....  
 .....  
 .....  
 .....

*Board of Primary Election Inspectors."*

*All pages of each tally sheet and of each statement of result sheet shall be securely bound together in convenient form.*

§ 40. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section eighty, and to read as follows:

§ 80. *Delivery of ballots and manner of voting. No voter at a primary election shall be given or be allowed to cast the ballot of any party with which he has not enrolled. The folding and delivery of ballots and the manner of voting shall be the same as prescribed for the folding and delivery of ballots and the manner of voting prescribed by the provisions of this chapter relating to general elections so far as the same may be applicable, and each ballot voted by an enrolled voter shall be deposited in the separate box provided for the party designated on the ballot, and such officer, in addition to announcing the name of the voter, shall also announce the party name thereon.*

§ 41. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section eighty-one, and read as follows:

§ 81. *Preparation of ballot by voters. On receiving a ballot the voter shall forthwith retire alone to one of the voting booths, and without undue delay fold his ballot. It shall not be lawful to deface or tear a ballot in any manner, nor to erase any printed name, device, figure, word or letter therefrom, nor to erase any mark made thereon by such voter. If the voter deface or tear a ballot, or wrongfully mark the same or make an erasure thereon, he may obtain one additional ballot on returning to the ballot clerk the one so defaced or wrongfully marked.*

§ 42. Section fifty-eight of such chapter is hereby renumbered section eighty-two, inserted as a part of article four-a thereof, and amended as follows:

§ [58] 82. *Persons within the guard-rail. From the time of the opening of the polls, until the result of the canvass of the votes cast thereat shall have been announced, and the official statements of such canvass shall have been signed, the ballot boxes and all voted ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except primary election [inspectors] officers, duly authorized*

watchers, persons admitted by the inspectors to preserve order or enforce the law, and persons duly admitted for the purpose of voting; provided, however, that any candidate voted for may be present at the canvass of the votes.

§ 43. Section fifty-nine of such chapter is hereby renumbered section eighty-three, inserted as a part of article four-a thereof, and amended to read as follows:

§ **[59]** 83. Watchers; challengers; electioneering. *The ballot and other boxes used at any primary shall be examined by the inspectors in the presence of the watchers, if any, before any ballots are received.* **[Watchers, not exceeding one]** *One watcher for each election district* **[.]** *may be appointed by any political committee, and by any two or more of the persons whose names are upon any ticket to be voted for at such primary election. Such watchers may be present at such polling place and within the guard-rail from at least fifteen minutes before the examination of any ballot or other box at the opening of the polls of such primary election until after the announcement of the result of the canvass of the votes cast thereat and the signing of the statements thereof by the inspectors. A reasonable number of challengers, at least one person for any three or more persons of each party holding its primary election at that polling place, whose names are upon any ticket to be voted for at such primary election, shall be permitted to remain just outside the guard-rail of each such polling place, where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open, at any polling place do any electioneering within such polling place, or within one hundred feet therefrom, in any public street or in any building or room, or in public manner, and no political banner, poster or placard shall be allowed in or upon such polling place on any primary day.*

§ 44. Section sixty of such chapter is hereby renumbered section eighty-four, inserted as a part of article four-a thereof, and amended to read as follows:

§ **[60]** 84. Canvass of votes. As soon as the polls at any official primary election shall close, the board of primary inspectors shall forthwith publicly canvass and ascertain the result thereof, and they shall not adjourn or postpone the canvass until it shall

be fully completed. All questions touching the validity of ballots or their conformity with the provisions of this [article] chapter shall be determined by a majority vote of the board of primary inspectors. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons during the canvass, to close, or cause to be closed, the main entrance to the room in which such canvass is conducted, in such manner as to prevent ingress or egress thereby. The board of primary inspectors shall proceed to canvass the vote by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the enrollment book[s] to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess, and, without unfolding them, forthwith destroy them. If two or more ballots shall be found in a [the] ballot box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the enrollment book[s] to have been deposited therein, and not otherwise. If there lawfully be more than one ballot box for the reception of ballots voted for at any one polling place, no ballot found in the wrong ballot box shall be rejected, but shall be counted in the same manner as if found in the proper box, if such ballots shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the enrollment book[s] to have been deposited in the proper box. The chairman only of the board of primary inspectors shall unfold the ballots taken from [the] a ballot box. When a ballot is not void, and a primary election inspector or a duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any

way for the purpose of identification, the inspectors shall write on the back of such ballot "Protested as marked for identification," and shall specify over their signatures upon the back thereof the mark or markings upon such ballot to which objection is made. The votes upon each ballot shall be counted by them as if not so protested. If any ballots shall be rejected as void, the reason for such rejection shall be written on the back thereof by the chairman of the inspectors, or by an inspector designated by him. All ballots rejected as void, and all ballots protested as marked for identification, shall be inclosed in a separate sealed package, which shall be indorsed on the outside thereof with the names of the inspectors, the designation of the election district, and the number and kind of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. A statement of the number of ballots of any party protested as marked for identification, and of the number thereof rejected as void, shall be included in each of the statements of the result of the canvass for such party. If requested by any watcher, the inspector shall, during the canvass, exhibit any and all ballots cast at such primary election to such watcher, fully opened and in such condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand.

§ 45. Section sixty-one of such chapter, as amended by chapter two hundred and forty of the laws of nineteen hundred and nine, is hereby renumbered section eighty-five, inserted as a part of article four-a thereof, and amended to read as follows:

§ [61] 85. Proclamation and statement of result. Immediately upon the completion of such canvass, the board of primary inspectors in each primary district shall make public oral proclamation of the result thereof, and shall make upon the statement of result sheet for each party a written statement of such result for each election district in such primary district, and also a duplicate thereof, which shall be known as the duplicate statement. Immediately after the completion of such statements, such board shall file the originals thereof with the custodian of primary records, and shall file the duplicate statements with the clerk of the city, town or village. [In any county which contains a city or

village to which this article is applicable and has territory greater than such city or village, the officers presiding at primary elections held in the political divisions of such county outside of such city or village shall file with the custodian of primary records immediately after the holding of every such primary election a sworn statement of the delegates and members of general committees elected thereat.】

§ 46. Section sixty-two of such chapter is hereby renumbered section eighty-six, inserted as a part of article four-a thereof, and amended to read as follows:

§ 【62】 86. Certificates of election; preservation of ballots. At all reasonable times any watcher shall have reasonable opportunity to make a transcript of *any* such statement, or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned. 【In the case of a primary election at which persons are elected to any convention or committee from election districts as the unit of representation, the board of primary inspectors shall, promptly after canvassing the vote, deliver to each of the persons who receive the largest number of votes as delegates to, or members of, such convention or committee, or to the respective persons authorized in writing by them to receive the same, a certificate stating the total number of votes cast for the respective candidates and the number thereof received by such persons respectively. Such certificate shall be the evidence of the election of such persons, and shall entitle them and each of them to be placed upon the roll of, and be admitted to, such convention or committee.】

After the close of the canvass of the votes at *official* primary elections, the ballots cast thereat, except those rejected as void or protest as marked for identification, shall be replaced in the ballot boxes from which they were respectively taken, and such ballot boxes shall then be securely locked and sealed, and shall be returned to the officer from whom they were received, who shall safely keep the same, subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after such primary election, and until all suits or proceedings before any court or judge touching the same shall have been finally determined, when the ballots shall be re-

moved and, without examination, destroyed. The custodian of primary records shall not be required to retain on file the enrollment books and other papers required to be filed with him by the board of primary inspectors for a period of more than three years unless otherwise directed by the district-attorney of the county or a judge or justice of a court of record.

§ 47. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section eighty-seven, to read as follows:

§ 87. *Canvass of statements of result; certificates of nomination or election.* 1. *Canvass by custodians of primary records.* The custodian of primary records shall forthwith proceed to canvass the statements of result filed with him as provided in this article, and shall complete such canvass within one hundred and twenty hours from midnight of the day upon which the primary election was held.

*He shall canvass separately the votes cast in each election district by the enrolled voters of the several parties respectively.*

*The candidate for a party nomination to public office, or for election to a party position, to be filled by the voters of a territory wholly within an election district, ward or town, who has received the highest number of votes cast in the primary election of a party in such election district, ward or town, shall be the nominee of said party for such public office, or shall be elected to such party position. Said custodian shall forthwith deliver to such candidate, if nominated for public office, a certificate of nomination, and if elected to a party position, a certificate of his election.*

*The candidate for a party nomination to public office, or for election to a party position, to be filled by the voters of a district wholly within the jurisdiction of a custodian of primary records and greater than an election district, ward or town, who has received the highest number of votes cast, in the primary election of a party, shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The custodian of primary records shall forthwith deliver to such candidate a certificate of such nomination to public office or election to party position, as the case may be.*



*The custodian of primary records shall duly certify to the secretary of state a statement of the vote cast in the primary election by the enrolled voters of each party, respectively, in each assembly district in the territory within his jurisdiction for all candidates for public office, or for party position, whose designations are required by this chapter to be filed in the office of the secretary of state. Such certificate shall be filed by such custodian in the office of the secretary of state within one hundred and twenty hours from midnight of the day on which the primary election was held.*

*2. The secretary of state shall forthwith proceed to canvass the certified statements so filed with him, and such canvass shall be made separately as to the candidates of each party.*

*The candidate who has the highest number of votes shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The secretary of state shall forthwith transmit to such candidate a certificate of such nomination to public office or election to party position, as the case may be.*

*3. A certificate of nomination or election at an official primary of a party duly issued as herein provided shall entitle the person to whom it is issued, if a candidate for public office, to a place on the official election ballot as the candidate of said party or the office for which he has been nominated, and if a candidate for party position to membership in the committee or to a seat in the convention to which he is elected. Upon the completion of said canvass to be made by the secretary of state, he shall prepare certified statements of the result of the primary election of each party participating therein, and shall make up the rolls of the conventions for which delegates were elected at such primary election and shall promptly mail or deliver the certificate containing the names of delegates to the state convention to the chairman and secretary of the state committees of the respective parties participating in such primary election.*

§ 48. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be section eighty-eight, to read as follows:

§ 88. *Primaries held to nominate candidates for special elections. Party nominations to an office to be voted for at a special election shall be made in the manner prescribed by the rules and regulations of the respective parties.*

§ 49. Section fifty of such chapter is hereby renumbered section eighty-nine, inserted as a part of article four-a, and amended to read as follows:

§ [50] 89. Unofficial primaries. Notice of all unofficial primary elections shall be given in the same manner as in the case of official primary elections, except that such notice shall be given by the proper party officers and shall not be at public expense. Unofficial primary elections shall be held in such places within the unit of representation for which the primary election is held, as shall be designated by the proper political committee, but there shall be at least one polling place within and for each assembly district, ward or village. The chairman and secretary of the political committee calling an unofficial primary election, or under whose direction such primary election is held, shall post and keep posted during the election, at or near the entrance to the room where the primary election is held, so that the same is clearly visible from the street, a conspicuous notice calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules and regulations of such party.

§ 50. Section thirty-seven of such chapter is hereby renumbered section ninety, inserted as a part of article four, and amended to read as follows:

· § [37] 90. Use of duplicate enrollment books at unofficial primaries. At all unofficial primary elections of a party, the certified copy of the enrollment books, [completed, in the case of election districts outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over, to the first day of the month preceding the month in which the primary election is held,] shall be used, and no voter shall be allowed to take part in such primary election as a resident of an election district, unless his name is upon the certified copy of the

enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate.

§ 51. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section ninety-one, and to read as follows:

§ 91. *Penalty for violation. Unless otherwise expressly provided in this chapter any person violating any of the provisions of articles two, three, four, four-a and four-b of this chapter is guilty of a misdemeanor.*

§ 52. Section seventy-four of such chapter is hereby renumbered section ninety-two, inserted as a part of article four-a thereof, and amended to read as follows:

§ [74] 92. Perjury. All oaths administered under the provisions of [this article] *this chapter* are hereby declared to be oaths required by law, and to be necessary for the ends of public justice.

§ 53. Such chapter is hereby amended by inserting therein as part of article four-a a new section, to be known as section ninety-three, to read as follows:

§ 93. *Nomination by convention in political subdivisions adopting a proposition therefor. Upon the adoption of a proposition therefor, submitted to the enrolled voters of a party in any political subdivision in the manner therein provided, all nominations of candidates of such party to be voted for by all the electors of such subdivision or by the electors of any territory wholly therein, whose nomination is provided in this chapter to be made by the direct vote of enrolled party voters at primary elections, shall thereafter be made by conventions of delegates, notwithstanding any other provision of this chapter providing for the nomination of any such candidate at a primary election. A petition, subscribed and acknowledged in the same manner as a petition for the designation of candidates for party nominations to public office, may be made by not less than five per centum of the enrolled voters of any political party within any political subdivision, praying for the submission of such proposition at the fall primary of such party within such subdivision in any year. If such political subdivision is wholly within the territorial jurisdiction of a custodian of primary records it shall be filed with such custodian, but otherwise with the secretary of state. Such petition shall be*

filed not later than the second Tuesday prior to the fall primary. The secretary of state shall, at the time he is required by this chapter to certify to custodians of primary records lists of persons whose designations as candidates for party nomination to public office have been filed with him, prepare and certify to the several custodians of primary records within each political subdivision affected by any such petition filed with him the fact that the submission of such proposition within that political subdivision is required, accompanied with a form of the proposition to be submitted, which shall be in substantially the following form, the blanks being properly filed in, to wit:

" Shall nominations of candidates for public office by the ..... party within the county of ..... (or within the forty-second senatorial district or other political subdivision, as the case may be) be made by conventions? "

Such proposition shall, in any political subdivision where the submission thereof has been properly requested as provided in this section, be printed on a separate part of the paper on which the official primary ballot is printed and below the heavy ruled line below the list of candidates. The form of the ballot for said proposition shall be, as nearly as may be, the same as for a question or proposition submitted at a general election, under the provisions of this chapter, including instructions to voters. An additional statement of result sheets and tally-sheet blanks, in duplicate, shall be provided at each polling place of the political party at whose primary such proposition is submitted, adapted as to form for recording the vote upon such proposition. Before canvassing the votes upon such proposition, the ballots, other than those found to be void, shall be replaced in the ballot box and mingled. The votes upon such proposition shall be canvassed after the completion of the canvass of the votes for candidates and the tally-sheet and statements of result sheets properly filled in, in the manner, as nearly as may be, provided by this chapter for the canvass of votes upon propositions submitted at a general election. The statements of result shall be filed in the same offices in which statements of results of the votes for candidates in the same political subdivisions are required to be filed. The statements of result shall be canvassed by the custodian of primary

records, and, if the petition was required to be filed with the secretary of state, he shall certify to such secretary, within the time required for certifying to such secretary the results of votes for candidates, a statement of the result of the vote on such proposition within the territory of his jurisdiction. Such proposition shall be deemed adopted if it receives the affirmative vote of a majority of the votes cast thereon. The secretary of state or custodian of primary records, as the case may be, shall prepare in duplicate under his hand and official seal an original statement showing whether such proposition was adopted or failed of adoption and shall file the same in his office and shall forthwith transmit a duly certified copy thereof to the chairman of the county committee, or of each such committee, if there be more than one, within such political subdivision.

If such proposition be adopted, thereafter all candidates of such political party for public office within such political subdivision shall be chosen by conventions of delegates from such units of representation as the party rules and regulations may prescribe. Such delegates, however, shall be elected at an official primary election, and the titles of their respective party positions and the names of candidates therefor shall be printed upon the official primary ballot immediately below the names of candidates for the position of delegate to the state convention and before the names of candidates for election as party committeemen. Candidates for election, at a primary election, as delegates to any such convention of such party may be made by committee or by petition in the manner provided for the designation of candidates for election to party committees. The committee to make such designation shall be one whose members are chosen from the unit of representation of any such delegate and may be created or constituted by party rules and regulations; but the members of any such committee shall be chosen at an official primary election.

In a political subdivision within two or more greater political subdivisions whose boundaries are not coterminous, two or more of such propositions, severally affecting the various greater subdivisions, may be submitted, and if adopted as to any one of such greater subdivisions, though failing of adoption as to one or more thereof, it shall apply to and control the method of nominating

*party candidates for public office within such lesser subdivision as well as throughout the greater political subdivision to which the proposition adopted relates, unless a separate proposition was also submitted and lost in relation to nominations within such lesser subdivision; and the submission of such proposition for such lesser political subdivision is hereby authorized. Where two or more such propositions are submitted they shall be printed one above the other in such order as the custodian of primary records may determine, but the order shall be uniform in all polling places within the jurisdiction of a custodian of primary records.*

§ 54. Such chapter is hereby amended by inserting therein a new article, to be article four-b thereof, the schedule of which shall read as follows:

#### ARTICLE 4-B.

##### CONVENTIONS.

*Section 110. Filling vacancy in position of delegate to convention at official primary.*

*111. Apportionment of delegates.*

*112. Organization of conventions.*

*113. Time of holding state convention; credentials of delegates.*

*114. Voting at state convention.*

§ 55. Such chapter is hereby amended by inserting therein, as a part of article four-b thereof, a new section, to be section one hundred and ten, and to read as follows:

§ 110. *Filling vacancy in position of delegate to convention at official primary. When a duly elected delegate to a convention does not attend such convention, his place shall be taken by one of the alternates to be substituted in his place, in the order in which the name of such alternate appears upon the certificate, and if no alternates have been elected, or do not appear at such convention, then the delegates present at such convention from such unit of representation shall elect a person to fill the vacancy.*

§ 56. Section sixty-six of such chapter is hereby renumbered section one hundred and eleven, inserted as a part of article four-b thereof and amended to read as follows:

§ [66] 111. [Conventions;] [a]Apportionment of delegates. [The delegates to every party convention in and for any political

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subdivision chosen in any city or village to which this article is applicable, shall be apportioned among the units of representation in such city, or village as nearly as possible upon the basis of the number of votes cast therein for the party candidate for governor at the last preceding general election, except that in any county which is not wholly included within the boundaries of a city of the first class, the general committee of the party may, by its rules and regulations, continue any system of representation in conventions existing on the second day of May in the year eighteen hundred and ninety-nine. The general committee of any party may also by its rules and regulations apportion the voting power of the delegates to a convention in accordance with such vote for governor. If the boundaries of any political subdivisions serving as units of representation shall have been changed since the last preceding general election at which a governor was elected, the party vote for governor at such election within the limits of such newly constituted units of representation shall be estimated as closely as possible and the apportionment of delegates shall be made in accordance with such estimate.】

*1. Units of representation in party conventions, and the number of delegates for each such unit, shall be determined by the rules and regulations of the respective parties. Existing units of representation in party conventions, and the number of delegates therefrom, shall continue until changed by rules adopted by the convention of the party desiring such change for its conventions.*

*2. The delegates and alternates to the state convention shall be elected by assembly district conventions. All delegates and alternates to all other conventions shall be elected at the primaries, excepting delegates to a national convention, who shall be elected as in this chapter provided.*

§ 57. Section sixty-seven of such chapter is hereby renumbered section one hundred and twelve, inserted as a part of article four-b thereof and amended to read as follows:

§ **[67]** 112. Organization of conventions. The room designated for the meeting place of any convention shall have ample seating capacity, for all delegates and alternates.

Every convention shall be called to order by the chairman of the committee with whom the call originates or by a person désig-

nated in writing for that purpose by such chairman, and such chairman or person so designated shall have the custody of the roll of the convention until it shall have been organized. No convention shall proceed to the election of a temporary chairman or transact any business until the time fixed for the opening thereof has arrived and at least a majority of the delegates or respective alternates named in the official roll shall be present. The roll-call upon the election of temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention, provided a majority of the delegates are present. The temporary chairman of the convention shall be chosen on a call of the roll, and as the name of each delegate is called he shall rise in his place and declare his choice for such officer. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and declaring the result thereof. The committees of a convention shall be appointed by the convention, or by the temporary chairman, as the convention may order. Unless the convention shall otherwise order, the permanent chairman shall be chosen on roll-call.

The permanent officers shall keep the records of the convention, and, within forty-eight hours after the adjournment thereof, shall certify and file the same in the office of the *secretary of state* or custodian of primary records. *If the convention shall have nominated a candidate or candidates for public office in the same office where certificates of such nomination are required to be filed. If to elect delegates to another convention one duplicate with the secretary of state and the other with the custodian of primary records for that political subdivision.* [Before entering upon their duties, the temporary and permanent chairman of every convention, and the chairman and members of any committee on contested seats therein, shall respectively take an oath to faithfully perform the duties of their offices, which oath may be taken before any officer authorized by law to administer an oath, and shall form a part of, and be filed with the records of the convention.]

§ 58. Such chapter is hereby amended by inserting therein as a part of article four-b thereof, a new section, to be section one hundred and thirteen, and to read as follows:



§ 113. *Time of holding state convention; credentials of delegates.* The state convention shall not be held earlier than seven days after the primary election at which the delegates thereto were elected. The delegates thereto certified or adjudicated to have been elected as such in the manner provided in this chapter shall be conclusively entitled to their seats, rights and votes as delegates to such convention.

§ 59. Such chapter is hereby amended by inserting therein, as a part of article four-b thereof, a new section, to be section one hundred and fourteen, and to read as follows:

§ 114. *Voting at state convention.* When the vote of a state convention is taken upon the nomination of candidates for public office or the election of delegates or committeemen, the roll of the delegates shall be called and each delegate when his name is called shall arise in his place and announce his choice, except that the chairman of a delegation may, unless a member of such delegation objects, announce the vote of his delegation.

§ 60. Sections one hundred and twenty-one, one hundred and twenty-two, one hundred and twenty-three, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six, one hundred and thirty-seven and two hundred and ninety-two of such chapter are hereby amended to read, respectively, as follows:

§ 121. *Party certificates of nomination.* The party certificate whereby such party nominations made by a convention are certified shall contain the title of the office for which each person is nominated, the name and residence of each such person, and, if in a city, the street number of the residence of each such candidate and his place of business, if any. It shall also designate, in not more than five words, the name of the political party which the convention, primary or committee making such nomination represents. It shall be signed by the presiding officer and a secretary of such convention or primary, or, if made by a committee, by a majority of the members thereof, who shall add to their signatures their respective places of residence, and shall make oath before an officer qualified to take affidavits that the affiants were such officers

of such convention or primary, or that they are members and constitute a majority of such committee, and that such certificates and the statements therein contained are true to the best of their information and belief. A certificate that such oath has been administered shall be made and signed by the officer before whom the same was taken, and attached to such certificate of nomination. When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention or primary which authorized such committee to make such nomination. A certificate of nomination filed pursuant to this section may upon its face appoint a committee of one or more persons for the purposes specified in section one hundred and thirty-five of this article. *The records in the office of the custodian of primary records or secretary of state showing the nomination of a party candidate for an office at an official primary election shall be equivalent to a certificate of his nomination.*

§ 122. Independent nominations. Nominations made as provided by this and the next section shall be known as independent nominations, and the certificate whereby such nominations are made shall be known as an independent certificate of nomination. Independent nominations of candidates for public office to be voted for by all the voters of the state can only be made by six thousand or more voters of the state; provided, however, that in making up such number at least fifty voters in each county of the state (the counties of Fulton and Hamilton to be considered as one county) shall subscribe the certificate provided for in this and the next section. Independent nominations of candidates for municipal offices to be voted for by all the voters of a municipality can only be made if in a city of the first class by **[two]** *four* thousand voters of such city; if in cities of the second class by one thousand *five hundred* voters of such city; and in other cities by **[five]** *eight* hundred voters thereof. Independent nominations of candidates for a county office in a county in which there is a city of the first class can only be made by **[two]** *four* thousand voters of such county. Independent nominations of candidates for public office other than municipal offices to be voted for in a district less than the whole state, but greater than a town or ward of a city, can only be made by one thousand *five hundred*

voters or more of the district except that **[five]** *eight* hundred voters or more of an assembly **[or school commissioner]** district may make such nomination for member of assembly **[or school commissioner]** to be voted for in such district. Independent nominations of candidates for public office to be voted for only by the voters of a town, or a ward of a city, or a village, can only be made by one hundred voters or more of such town, ward or village, except that when such town, ward or village constitutes an assembly **[or school commissioner]** district, **[five]** *eight* hundred or more voters shall be required as above to make such nomination for member of assembly **[or school commissioner]**.

§ 123. Independent certificates of nomination. Independent nominations shall be made by a certificate subscribed by such **[voters]** *electors*, each of whom shall add to his signature his place of residence and make oath that he is **[a voter]** *an elector* and has truly stated his residence. The making of the said oath shall be proved by the certificate of the notary or other officer before whom the said oath is taken, and it shall be unnecessary for **[a voter]** *an elector* who has subscribed a certificate of nomination as herein provided, to sign any affidavit as to the matter to which he has made oath as aforesaid. The certificate hereinbefore provided for of the notary or other officer shall be in the following form substantially:

“STATE OF NEW YORK, }  
County of ..... } ss.:

On the ..... day of ....., in the year ....., before me personally came (here shall be inserted the names of each and every **[voter]** *elector* appearing and making oath before the said officer), each of whom was to me personally known and known by me to be the **[voter]** *elector* whose name and place of residence is subscribed by him to the foregoing certificate, and each of the foregoing **[voters]** *electors* being by me duly and severally sworn did make oath that he is **[a voter]** *an elector* and has truly stated his residence and that it is his intention to support at the polls the candidacy of the person or persons nominated for public office in the foregoing certificate of nomination.

(Signature and official title).”

The certificate of nomination and each separate paper thereof, if there be more than one such paper, shall contain the following declaration which shall be subscribed by the signers thereof: "We, the undersigned duly qualified [voters] *electors* of the district for which the nomination for public office is hereby made under the provisions of sections one hundred and twenty-two and one hundred and twenty-three of the election law do hereby declare that it is our intention to support at the polls the candidacy of the person or persons herein nominated for public office."

The certificate shall also contain the titles of the offices to be filled, the name and residence of each candidate nominated, and if in a city, the street number of such residence and his place of business, if any; and shall designate in not more than five words the political or other name which the signers shall select, which name shall not include the name of any organized political party.

A certificate may designate upon its face one or more persons as a committee to represent the signers thereof, for the purposes specified by section one hundred and thirty-five of this article. The signatures to the certificate of nomination need not all be appended to one paper. No person shall join in nominating more candidates for any one office than there are persons to be elected thereto, and no certificate shall contain the names of more candidates for any office than there are persons to be elected to such office.

*The name of no person signing an independent certificate of nomination shall be counted unless such person shall be registered, and in case a candidate nominated by an independent certificate of nomination at the time of filing the said certificate or afterward be the candidate of a political party for the same office the name of no person who is an enrolled member of such political party shall be counted. For the purpose of ascertaining whether the person whose name appears on an independent certificate of nomination signed such certificate, the affidavit or testimony of such person that he did not sign such certificate shall be prima facie evidence that he did not sign such certificate. No separate sheet comprising an independent certificate of nomination, where such certificate consists of more than one sheet, shall be received and filed with the custodian of primary records if five*

*per centum of the names appearing on such sheet are determined by the custodian of primary records to be fraudulent or forged. If the name of a person who has signed a certificate of independent nomination appear upon another certificate nominating the same or a different person for the same office, it shall not be counted upon either certificate.*

§ 127. Places of filing *certain* certificates of nomination. Certificates of nomination of candidates for office to be filled by the voters of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county shall be filed in the office of the county clerk of Hamilton county, so long as the said counties constitute one assembly district, and except that certificates of nomination of candidates for offices to be filled only by the voters or a portion of the voters of the city of New York shall be filed with the board of elections of the city of New York.

Certificates of nomination of candidates for offices to be filled only by the votes of voters, part of whom are of New York city and part of whom are of a county not wholly within the city of New York, shall be filed with the clerk of such county and in the office of the board of elections of said city. Certificates of nomination of candidates for offices of any other city, except the city of Buffalo, to be elected at the same time at which a general election is held shall be filed with the clerk of the county in which such city is located. Certificates of nominations of candidates for offices **[of any other city, except the city of Buffalo, or for officers]** of a *city*, village or town to be elected at a different time from a general election shall be filed with the clerk of such city, village or town, respectively.

In towns in which town meetings are held at the time of general elections, certificates of nomination of candidates for town offices shall be in duplicate, one of which shall be filed with the town clerk of the town in which such officers are to be voted for, and the other with the clerk of the county in which such town is

located, except that in [the county of Erie] *counties having a commissioner of elections* all such duplicate certificates of nomination shall be filed, one with the commissioner of elections and one with the clerk of the town in which such officers are to be voted for. [All other certificates of nomination, except in the county of Erie, shall be filed with the clerk of the county in which the candidates so nominated are to be voted for, and in the county of Erie all such certificates, including certificates for the nomination of ward and city officers in the city of Buffalo shall be filed with the commissioner of elections.]

All *filed* certificates and corrected certificates of nomination, all objections to such certificates and all declinations of nomination are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without delay every such paper to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates *issued by or* filed in the office of such officer or board or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination, and in which shall also be stated all declinations of nomination or objections to nominations, and the time of filing each of the said papers.

§ 128. Times of filing certificates of nominations. [The] *Unless otherwise specifically provided in this chapter, the different certificates of nomination shall be filed within the following periods before the election for which the nominations are made to wit:* Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; [if independent nominations, at least twenty-five and not more than forty days;] those required to be filed with the [county clerk, or] *board of elections and in the counties within the city of New York, the board of elections of the city of New York, [or with the city clerk of any other city, or with the commissioner of elections of Erie county]* if party nominations, at least twenty-five and not more than thirty-five days; [if independent nominations, at least twenty and not more than thirty-five days;] those required

to be filed with a town or village clerk, if party nominations, at least fifteen and not more than twenty days; [if independent nominations, at least ten and not more than twenty days;] except that in towns, other than in the county of Erie, where town meetings are held at the time of general elections, certificates of nomination for town officers shall be filed with the town clerks and [county clerks] board of elections within the time required by this section for the filing of certificates of nomination with the [county clerk, and in the county of Erie such certificates shall be filed with the commissioner of elections and the town clerks not less than twenty nor more than thirty days before the day of election] board of elections; *if independent nominations within five days after party nominations for the same offices are required to be filed, and not earlier than party nominations for the same offices can be filed with the boards of elections.*

In case of a special election ordered by the governor under the provisions of section two hundred and ninety-two of this chapter, the certificates of nomination for the office or offices to be filled at such special election shall be filed with the proper officers or boards not less than [fifteen] *ten* days before such special election.

§ 129. Certification of nominations by secretary of state. The secretary of state shall, fourteen days before the election, *or nine days before a special election*, certify to the [county clerk of each county, except the county of Erie] board of elections of each county, [and those counties the whole of which is within the city of New York,] and to the board of elections of the city of New York, [and to the commissioner of elections of the county of Erie,] the name, residence and place of business, if any, of each candidate *either* nominated in any certificate so filed *with him, or to whom he has issued a certificate*, for whom the voters of any such county or said city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

§ 130. Publication of nominations. At least sixty days before an election to fill any public office the [county clerk] board of elec-

tions of each county, except those counties which are wholly within the city of New York, [and the county of Erie, and in the county of Erie the commissioner of elections,] shall cause to be published in not less than two nor more than four newspapers within such county, one of which shall be a daily newspaper, if a daily newspaper is published in such county, and in any county having one hundred thousand or more inhabitants, adjoining a city having a population of one million or more, in not less than six nor more than ten newspapers, a list of all nominations of candidates for offices other than town offices to be filled at such election, certified to such officer by the secretary of state, or filed in the office of such officer, *or certified by such officer*. The board of elections of the city of New York shall, within the same time before an election to fill any public office, cause to be published in two newspapers published in each borough within such city a list of the nominations of candidates for office to be voted for at such election in such boroughs respectively, which were certified to such board by the secretary of state, or filed in the office of such board, *or certified by such board*, and in the borough of Brooklyn the board of elections shall cause such publication to be made in the newspapers designated as corporation newspapers of said borough.

Such publication shall contain the name and residence, and if a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, and a fac simile of the emblems or devices selected and designated as prescribed by this article, to represent and distinguish the candidates of the several political parties or independent bodies. The city clerk of each city except New York and Buffalo, and the board of elections of the city of New York, and in the city of Buffalo the [commissioner of elections,] *board of elections of Erie county*, shall at least six days before an election of city officers thereof, held at a different time from a general election, cause like publications to be made as to candidates for offices to be filled at such city election in a like number of newspapers published in such city.

One of such publications shall be made in a newspaper which advocates the principles of the political party that at the last pre-



ceding election for governor cast the largest number of votes in the state for such office; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the next largest number of votes in the state for such office. The officer or board, in selecting the papers for such publications, shall select those which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the officer or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties. The officer or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the [county clerk] *board of elections* or other officer find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

§ 131. Lists for town clerks and aldermen. The [county clerk] *board of elections* of each county, except [the county of Erie and] those counties which are wholly within the city of New York, [and in the county of Erie the commissioner of elections,] shall at least six days before election day send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city, the street number of residence, and place of business, if any, of all candidates whose certificates of nomination have been filed with *or issued by* him or been certified to him, and the party or other designation, and also a fac simile of the emblem or device of each political party or independent body nominating candidates to be voted for by the voters of the respective towns and wards. Such lists shall at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which lists shall be so posted at each polling place.

§ 133. Declination of nomination. The name of a person nominated for any office shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination, or if nominated by more than one political party or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a party nomination filed with the secretary of state, such notification shall be given at least twenty-five days, and if an independent nomination at least twenty days, before the election. If the declination be of a party nomination filed with a [county clerk or the] board of elections *of any county and in the counties within the city of New York with the board of elections* of the city of New York, or [the commissioner of elections of the county of Erie, or] with the city clerk of any city, such notification shall be given at least twenty days, and if of an independent nomination at least eighteen days, before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination, at least seven days before the election; except that a declination of nomination to a town office in towns where town meetings are held at the time of general elections, must be filed in the office of the [county clerk, and if in the county of Erie in the office of the commissioner] board of elections, within the time required by this section for filing the declination of nomination to a county office, and the [county clerk or the said commissioner] board of elections shall forthwith notify the town clerk in writing of such declination.

The officer to whom such notification is given shall forthwith inform by mail or otherwise the committee, if any, appointed on the face of such certificate as permitted by sections one hundred and twenty-one and one hundred and twenty-three of this article, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secre-

tary of state, such officer shall also give immediate notice by mail or otherwise that such nomination has been declined, to the several [county clerks], boards of elections or other officers authorized by law to prepare official ballots for election districts affected by such declination.

§ 134. Objections to certificates of nomination. A written objection to any certificate of nomination may be filed with the officer with whom the original certificate of nomination is filed within three days after the filing of such certificate[.]; *excepting that if by any independent certificate of nomination any person is nominated who is at the time or shall be after the filing of such independent certificate of nomination, the candidate of a political party for the same office and the party certificate has been filed after the filing of the independent certificate of nomination, the written objection to the independent certificate of nomination may be filed within three days after the filing of such party certificate; and if written objections to such independent certificate of nomination have been already filed by the same or some other person and shall have been heard and determined or heard and not determined, there shall be a new hearing upon all the objections so filed. The written objections to an independent certificate of nomination filed after the filing of a party certificate as herein provided may contain all objections to such independent certificate notwithstanding the same or some other person has already filed objections to such certificate.* If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such certificate for the purposes specified in section one hundred and thirty-five of this article, and also to each candidate placed in nomination by such certificate. The questions raised by such written objection shall be heard and determined as prescribed in section one hundred and twenty-five of this article.

§ 135. Filling vacancies in nominations and determination of the votes at primaries. If a nomination *made otherwise than by an official primary election* is duly declined, or the attempt to nominate at a primary results in a tie, or a candidate regularly nominated *otherwise than by an official primary election* dies before election day, or is found to be disqualified to hold the office

for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by sections one hundred and twenty-one and one hundred and twenty-three of this article, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy, it shall not be lawful to select a new emblem or device, but the emblem or device chosen to represent or distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated as provided by this section. *A vacancy in a nomination for public office made at a primary election shall be filled as follows: a vacancy caused by death, declination or disqualification of a candidate, or by a tie vote, shall be filled by the party committee of that political subdivision in and for which such nomination was made or attempted to be made. Such vacancy may be filled by a majority vote of a quorum of such committee or committees.*

§ 136. Certificates of new nominations. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee, and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case provided for in section one hundred and thirty-seven, the said certificate shall be filed in the office in which the original certificate was filed, at least six days before election, if filed in the office of a town or village clerk; at least fifteen days before the election, if filed with [the county clerk] the board of elections of any county or the board of elections of the city of New York [or the com-

missioner of elections of the county of Erie] or the city clerk of any city; and at least fifteen days if filed with the secretary of state: and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state, he shall, in certifying the nomination to the various county clerks and other officers, insert the name of the person who has been nominated as prescribed by the previous section, instead of that of the candidate nominated by the original certificate, or, if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officers the name of the person nominated as prescribed by the previous section, and such other facts as are required to be stated in such certificate. [When no nomination shall have been originally made by a political party or by an independent body for an office, or when a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nominations or to fill vacancies, to nominate or substitute the name of a candidate of another party or independent body for such office; it being the intention of this chapter that when a candidate of one party is nominated and placed on the ticket of another party or independent body, such nominations must be made at the time and in the manner provided for making original nominations by such party or independent body.]

§ 137. Death of candidate after printing of ballots; official pasters. In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, *or by whom it was issued, and if filed with the secretary of state, the secretary of state shall immediately give the necessary notifications*, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy, and the title of the office for which he was nominated. The pasters shall be of plain white paper,

printed in plain black ink and in the same kind of type as that used in printing the titles of the offices and the names of the candidates upon the official ballots, and shall be of a size as large as and no larger than the space occupied upon the official ballot by the title of the office and the name of the candidate in whose place the candidate named upon the paster has been nominated. If the candidate be one of a group of candidates, such official paster shall contain the name of the candidate but not the title of the office.

Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall deliver the pasters to the ballot clerks, who are required to affix one of such pasters in the proper place and in a proper manner upon each official ballot before said ballot shall be delivered to a voter. When so affixed to the official ballot, the pasters shall be [considered as being] part of the official ballot. The ballot clerks shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be inclosed in the package of ballots not delivered to voters.

The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.

§ 292. Filling vacancies in elective offices. A vacancy occurring before October fifteenth of any year in any office authorized

to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term, or upon the occurrence of a vacancy in any elective office which can not be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor may in his discretion make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than [twenty] thirty nor more than forty days from the date of the proclamation.

A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

§ 61. Such chapter is hereby amended by inserting in article eighteen thereof a new section, to be known as section four hundred and eighty-nine, to read as follows:

§ 489. *Authority of state superintendents of elections. The authority, powers and jurisdiction of the state superintendents of*

*elections with respect to general elections, as defined by the provisions of this article, are hereby extended to primary elections, so far as such provisions may be applicable; but no deputy superintendent of elections appointed under section four hundred and seventy-three of this chapter shall attend an official primary election except for the purpose of voting.*

§ 62. Such chapter is hereby amended by adding at the end of article twenty a new section, to be known as section five hundred and sixty-two, to read as follows:

§ 562. *Party funds not to be expended for primary purposes. No contributions of money, or the equivalent thereof, made directly or indirectly, to any party, or to any party committee or member thereof, or to any person representing or acting on behalf of a party, or any moneys now in the treasury of any party, or party committee, shall be expended in aid of the designation, nomination or election of any person to be voted for at a primary election, either as a candidate for nomination for public office, or for any party position; except that such funds may be used to pay the expenses of holding any meeting of a party committee called to designate a candidate or candidates for nomination for public office in accordance with the provisions of this chapter and for the purpose of printing and distributing any literature regarding such candidates, the postage, clerk hire and necessary expenses incident to informing the voters regarding such candidate, the holding of meetings and other legitimate expenses necessarily incurred in promoting the canvass of such candidate.*

§ 63. Sections two, three, four, five, six, seven, twenty, twenty-one, twenty-four, thirty-two, thirty-three, thirty-four, thirty-five, forty-five, forty-six, fifty-two, fifty-three, fifty-four, fifty-six, sixty-three, sixty-four, sixty-five, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three, one hundred and four and one hundred and twenty of such chapter, are hereby repealed.

§ 64. This act shall take effect immediately, but shall not affect party nominations for public office made before the act takes effect.



(No. 30.)

AN ACT making appropriations for certain expenses of government and supplying deficiencies in former appropriations.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The treasurer shall pay, on the warrant of the comptroller, from the several funds specified, to the persons, and for the purposes indicated in this act, the amounts named or so much thereof as shall be sufficient to accomplish in full, the purposes designated by the appropriations, which several amounts are hereby appropriated out of any moneys in the treasury not otherwise appropriated. No warrants shall be issued, except in the case of salaries, until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, upon vouchers presented as required by section twelve of the state finance law. Whenever an appropriation shall have been provided otherwise the sum herein directed to be paid shall not be considered as an addition to such other appropriation unless it shall be expressly so declared in this act.

### **FROM THE GENERAL FUND.**

#### **EXECUTIVE.**

##### **EXECUTIVE OFFICE.**

For necessary expenses including furniture, books, binding, blanks, printing, messages, traveling and other incidental expenses, five hundred dollars, or so much thereof as may be necessary.	\$500 00
For postage and transportation of letters, official documents, and other matter sent by express or freight, including boxes or covering for same, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For incidental expenses of the executive mansion, rent of stable and equipage, two thousand dollars, or so much thereof as may be necessary, to be paid by the	

comptroller on the certificate of the governor or the secretary to the governor.	2,000 00
For compensation of persons appointed to examine and investigate departments, boards, bureaus and commissions of the state and for expenses necessarily incurred in the examinations or investigations of such departments, boards, bureaus and commissions, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For the reasonable cost and expense of proceedings by or before the governor upon charges against or relative to the removal of any officer, including necessary assistance and the taking and reporting of the evidence and other expenses necessary, ten thousand dollars, or so much thereof as may be necessary, to be paid on the certificate of the governor.	10,000 00
For the compensation and expenses of persons employed in the examination of legislative bills for the year nineteen hundred and eleven, to be paid on the certificate of the governor, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For printing the state papers of the governor for the year nineteen hundred and ten, eight hundred dollars, or so much thereof as may be necessary.	800 00

### ADMINISTRATIVE.

#### OFFICE OF THE SECRETARY OF STATE.

For deficiency in appropriation for reindexing corporation records, including compensation for services, printing, binding, cards, cases and other necessary expenses in connection therewith, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For fees of surrogates in furnishing to the secretary of state copies of letters of administration and copies of wills probated in other states, and subsequently filed in this state as provided by section twenty-five hundred	

and three, code of civil procedure, three hundred dollars, or so much thereof as may be necessary.	300 00
For expenses incident to the inauguration of his excellency, John A. Dix, governor of the state of New York, four thousand dollars, or so much thereof as may be necessary.	4,000 00
For personal expenses and disbursements of the secretary of state and his deputy from January first, nineteen hundred and eleven, to October first, nineteen hundred and eleven, three hundred fifty dollars.	350 00
For compensation for temporary employees, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For increase in salaries of employees of various bureaus, in accordance with rules of the civil service commission, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the purpose of complying with the provisions of sections one hundred and fifty-five, one hundred and sixty-seven, four hundred and eighty-five, one hundred and eighty-two and three hundred and twenty of chapter twenty-two of the laws of nineteen hundred and nine, being the election law, in addition to eighteen thousand dollars which may be appropriated therefor in order to provide for further expenses in amendment of the election law, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

#### OFFICE OF THE COMPTROLLER.

For deficiency in salary of the secretary to the comptroller from January first to September thirtieth, nineteen hundred and eleven, nine hundred seventy-five dollars.	975 00
For deficiency in salaries of deputies to the comptroller from July first to September thirtieth, nineteen hundred and eleven, seven hundred fifty dollars, or so much thereof as may be necessary.	750 00

For deficiency in salaries of employees in the corporation tax bureau, as follows: Eleventh grade, one employee, from July first to September thirtieth, nineteen hundred and eleven, seven hundred fifty dollars;	750 00
ninth grade, one employee, from June fifteenth to September thirtieth, nineteen hundred and eleven, five hundred eighty-three dollars and thirty-three cents.	583 33
For deficiency in salary of the chief clerk of the stock transfer tax bureau, from February first to September thirtieth, nineteen hundred and eleven, six hundred sixty-six dollars and sixty-six cents.	666 66
For deficiency in salary of one employee, ninth grade, land tax bureau, from April first to September thirtieth, nineteen hundred and eleven, one hundred seventy-five dollars.	175 00
For deficiency in salary of the document clerk from April first to September thirtieth, nineteen hundred and eleven, two hundred fifty dollars.	250 00
For the comptroller for the payment of additional services rendered by G. W. McElroy, in the performance of the duties of chief clerk of the transfer tax bureau in addition to his duties as assistant chief clerk, during the period from February first, nineteen hundred and ten, to July first, nineteen hundred and eleven, two thousand one hundred twenty-five dollars.	2,125 00
For the widow of the late Willis E. Merriman, who served the state for fifty years, during forty-five of which he was employed in the comptroller's office, and who died March twenty-second, nineteen hundred and eleven, two thousand two hundred fifty dollars, an amount equal to that portion of his annual compensation which would have been paid him from April first to September thirtieth, nineteen hundred and eleven, had he continued to live to that date.	2,250 00
For deficiency in appropriation for compensation and expenses of counsel employed by the comptroller in legal actions or proceedings, for expert services in the	

matter of investigations, one thousand one hundred twenty-five dollars, or so much thereof as may be necessary.	1,125 00
For deficiency in appropriation for furniture, books, binding, blanks, printing, messages and other incidental office expenses, including rent of New York city office, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For deficiency in appropriation for postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the services and necessary traveling expenses of the examiners and assistants in the auditor's bureau, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For deficiency in the appropriation for printing and incidental expenses of the bureau of mortgage tax, municipal accounts and court and trust funds, and detective licenses, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For electric wiring and fixtures for the comptroller's office and for other necessary furniture and repairs, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For the comptroller, for refunds for stamps erroneously affixed and canceled in the payment of a tax upon a transfer of stock, to be paid upon satisfactory proof being furnished, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the payment of interest on temporary loans to meet legal demands on the treasury in pursuance of section fourteen of the state finance law, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For the actual and necessary traveling expenses of examiners in the examination of the accounts of the sev-	

eral counties, cities of the second and third classes and incorporated villages of the state, pursuant to article three of chapter twenty-nine of the laws of nineteen hundred and nine, being the municipal corporations law, two thousand dollars.	2,000 00
For the services of examiners in the examination of the accounts of the several county treasurers of the state, as required by section forty-three of chapter twenty-three of the laws of nineteen hundred and nine, being the executive law, three thousand dollars.	3,000 00
For temporary clerical services, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the comptroller for expenses necessarily incurred in the conduct of his office, including compensation of employees, examiners and experts, traveling and other expenses made necessary by new legislation, including the examination and supervision of private bankers, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00
Two hundred twenty dollars and sixty-six cents, being the unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for protecting and perfecting the state's title to lands, is hereby reappropriated for the same purpose. (re. \$220.66)	
For the comptroller, for furnishing portable steel filing cases for original tax returns, deeds, abstracts of title, books and records relating to corporation, taxes, land titles, taxes and tax sales, and for other furniture and necessary repairs in the various bureaus of the department, thirty-five thousand dollars, or so much thereof as may be necessary.	35,000 00
For steel equipment in the following departments of the comptroller's office:	
Bureau of canal affairs, three thousand eight hundred dollars, or so much thereof as may be necessary;	3,800 00
transfer tax bureau, two thousand seven hundred dollars, or so much thereof as may be necessary;	2,700 00

printing board and part of finance bureau, five thousand dollars, or so much thereof as may be necessary ;	5,000 00
for storage rooms, for comptroller's records, five thousand five hundred dollars, or so much thereof as may be necessary.	5,500 00

For repairing premises in the city of Kingston required by the State through the Harrington escheat, two hundred thirty dollars, or so much thereof as may be necessary.	230 00
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### TREASURER'S OFFICE.

Nine hundred thirty-four dollars and sixty-three cents, or so much thereof as may be necessary, being an unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for traveling expenses of the treasurer, is hereby reappropriated for the traveling expenses of the deputy treasurer and other employees of the department in the performance of their official duties. (re \$934.63)

For deficiency in appropriation for the purchase of books, blanks, binding and printing and other incidental office expenses, including rent and insurance, made necessary by the capitol fire, four thousand five hundred dollars, or so much thereof as may be necessary.	4,500 00
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### ATTORNEY-GENERAL.

For the expenses of his office, including furniture, books, binding, blanks, postage, express or freight upon letters, documents or other matter, including boxes or other covering therefor, telegraph, telephone and messenger service, traveling expenses of deputies and employees necessarily incurred in the business of the office, and other incidental expenses of the attorney-general in the conduct of his office, including temporary, clerical and stenographic service, fifteen thousand dollars, or so much thereof as may be necessary	15,000 00
For the payment of attorneys, counsel, special deputies, agents, and commissioners employed by him in pur-	

suance of law, including compensation of witnesses, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For the payment of attorneys, counsel and deputies designated or employed in actions or proceedings brought in pursuance of the provisions of the executive law, twenty thousand dollars, or so much thereof as may be necessary; but no warrant shall be issued for such payments until the amounts claimed shall be certified, audited and allowed by the attorney-general and governor.	20,000 00
For the expense of investigating claims on behalf of or against the state, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For the employment of lawyers and abstract and title companies to examine titles to lands appropriated for barge canal purposes and other titles to property being purchased by the state and for the necessary expenses incident thereto, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For the compensation of accountants to examine the books and accounts of receivers as required by section two hundred and forty-nine of the general corporation law, and to render such other services, if any, as the attorney-general may deem necessary, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For the payment of county clerks' fees for making searches in connection with the examination of barge canal titles, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For the library in the office of the attorney-general and his New York bureau for continuing sets of law reports, the purchase of new books, book cabinets, holders and miscellaneous library supplies and any other purchases made necessary by the equipment for and the repair and completion of the library, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For deficiency in the salary of one deputy attorney-general in the New York office from August first to	



September thirtieth, nineteen hundred and eleven, eight hundred thirty-three dollars and thirty-three cents.

833 33

One thousand five hundred forty-five dollars and seventy-five cents, being the unexpended balance of the appropriation made by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for the payment to The Martin B. Brown Company for printing, is hereby appropriated for the attorney-general for the purpose of payment for printing of opinions, et cetera (re. \$1,545.75).

For Charles A. Dolson for a balance due him for services rendered and expenses incurred as special counsel for the people in the case of People of New York against George B. McClelland and William R. Hearst impleaded; under designation of William S. Jackson, attorney-general, ten thousand dollars.

10,000 00

For the payment of attorneys and special counsel, including disbursements incurred upon the authorization of former Attorney-General Jackson and former Attorney-General O'Malley, to be paid by the comptroller upon the approval of the attorney-general, forty-three thousand dollars, or so much thereof as may be necessary.

43,000 00

#### CIVIL SERVICE COMMISSION.

For salaries of temporary employees and for other necessary office expenses of the civil service commission, two hundred dollars, or so much thereof as may be necessary.

200 00

For deficiency in appropriations for the actual and necessary traveling and other expenses of the commissioners, secretary, chief examiner or other employees of the commission in the performance of their official duty, one thousand dollars, or so much thereof as may be necessary.

1,000 00

**LEGISLATIVE.****LEGISLATURE.**

For the advances by the comptroller to the clerk of the assembly for the clergymen officiating as chaplains, to be paid at the rate of five dollars for each day of attendance; for deficiency in appropriations for such advances; for printing, stationery, supplies, file boards and record books; for preparation, proof reading and comparison of journals and financial reports; clerical and stenographic services; for engrossing resolutions; for printing and revising clerk's manual; for books and blanks; for care of bills, documents and library; for law books and binding of books and records; for steel cases, furniture and appurtenances; for expenses receiving reports and printed documents, storing, addressing and forwarding the same; for extra clerical service; and for other contingent expenses, forty thousand dollars, or so much thereof as may be necessary.

40,000 00

For advances to the clerk of the assembly, fifteen thousand dollars, or so much thereof as may be necessary; for the purchase of books, pamphlets and documents, furniture, shelving, fittings and cases which are necessary to replace the library of the assembly destroyed by fire, and proper care of the same.

15,000 00

For deficiency in appropriation for the expenses of the legislative committees of nineteen hundred and ten, to be paid upon the certificate of the temporary president of the senate or the speaker of the assembly, respectively; for indexing the bills, journals and documents of the senate and assembly; for the preparation of indices to senate journals, bills and documents; for the preparation of session indices to senate and assembly bills, journals and documents; for indexing the executive journals of the senate and for preparation of supplementary indices to senate and assembly bills, journals and documents; for insurance, postage, express and transportation of letters, documents and other matter sent by express or freight, including boxes and coverings for the same; for expenses of re-

<p>ceiving, storing, addressing and forwarding reports and printed documents, including the rental of rooms for same; for printing and furnishing the legislative manual and clerk's manual; for law and reference books and publications for the senate and assembly library, and committees of the legislature; for legislative indices to senate and assembly bills, journals and documents; for extra clerical services and engrossing; for furniture, alteration and repairs of legislative rooms and for other contingent expenses of the legislature, to be paid upon the certificate of the clerk of the senate and assembly, respectively; for compensating the officers and employees of the senate and assembly, including persons employed under section twenty-four of the legislative law, whose compensation is fixed at a stated sum for the annual session of the legislature, for services rendered at the annual session of nineteen hundred and eleven, subsequent to the first one hundred and twenty calendar days thereof, at a rate per diem for each such officer or employee which he would have received if the annual session had terminated at the end of one hundred and twenty days, payable in the same manner as the regular compensation of such officer or employee is paid, the sum of one hundred and seventy-five thousand dollars, or so much thereof as may be necessary.</p>	175,000 00
<p>For deficiency for the compensation and mileage of members and officers of the legislature, the sum of ninety-five thousand dollars, or so much thereof as may be necessary.</p>	95,000 00
<p>For the lieutenant-governor and the speaker of the assembly, for their actual and necessary traveling and other expenses in the performance of their duties upon the several boards of which they are members, one thousand dollars, or so much thereof as may be necessary.</p>	1,000 00
<p>For the lieutenant-governor, for extra stenographic and clerical services, one thousand two hundred fifty dollars, or so much thereof as may be necessary.</p>	1,250 00

For the speaker of the assembly, for extra stenographic and clerical services, one thousand two hundred fifty dollars, or so much thereof as may be necessary.	1,250 00
For extra clerical services for the senate finance committee, to be paid upon the approval of the chairman of the senate finance committee, five hundred dollars, or so much thereof as may be necessary.	500 00
For the employment, if needed, prior to the legislative session of nineteen hundred and twelve, of persons in the legislative bill drafting department to assist in the preparation of proposed legislative bills, such persons to be designated and their compensation fixed by the governor and paid on his certificate, thirty-five hundred dollars, or so much thereof as may be necessary.	3,500 00
For Odell R. Blair, for the preparation of the index to the report of the joint committee of the senate and assembly, appointed to investigate telephone and telegraph companies, five hundred dollars, or so much thereof as may be necessary, to be paid on the audit of the comptroller and the chairman and vice-chairman of said committee.	500 00

## PRINTING.

For legislative and department printing:

For printing fifteen hundred additional copies of the final report of the committee appointed to investigate corrupt practices, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number two hundred and thirty, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number one hundred and fifty, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing one thousand additional copies of assembly bill number one hundred and twenty-one, ordered by resolution of the assembly, February second, nineteen hundred and eleven; for printing one thousand additional copies of senate bill number one hundred and

seventy, ordered by resolution of the senate, February tenth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number two hundred and forty-four, ordered by resolution of the assembly, February ninth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number two hundred and five, ordered by resolution of the assembly, February ninth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number one hundred and ninety-four, ordered by resolution of the assembly, February ninth, nineteen hundred and eleven; for printing eight hundred additional copies of senate bill number two hundred and forty-six, ordered by resolution of the senate, February tenth, nineteen hundred and eleven; for printing five hundred additional copies of senate bill number one hundred and eighty-two, ordered by resolution of the senate, February ninth, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number eighteen, ordered by resolution of the assembly, February twenty-second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bill number nineteen, ordered by resolution of the assembly, February twenty-second, nineteen hundred and eleven; for printing five hundred additional copies of senate bill number two hundred and twenty-six, ordered by resolution of the senate, February twenty-second, nineteen hundred and eleven; for printing five hundred additional copies of assembly bills numbers four hundred, four hundred and one, four hundred and two, four hundred and three, four hundred and four, four hundred and five, four hundred and six, four hundred and seven, four hundred and eight, and four hundred and nine, ordered by resolution of the assembly, February twenty-third, nineteen hundred and eleven; for printing five hundred additional copies of assembly bills numbers four hun-

dred and twenty-one, four hundred and twenty-two, four hundred and twenty-three, four hundred and twenty-four, four hundred and twenty-five and four hundred and twenty-six, ordered by resolution of the assembly, February twenty-third, nineteen hundred and eleven; for printing five hundred additional copies of all bills of the assembly, as directed by the clerk of the assembly, ordered by resolution of the assembly, March first, nineteen hundred and eleven; for printing five hundred additional copies of senate bill number four hundred and thirty-four, ordered by resolution of the senate, March fourteenth, nineteen hundred and eleven; for printing three thousand additional copies of senate bill number four hundred and sixty-four, ordered by resolution of the senate, March fourteenth, nineteen hundred and eleven; for printing eighteen hundred additional copies of the final report of the committee appointed to investigate corrupt practices, ordered by resolution of the senate, March fourteenth, nineteen hundred and eleven; for printing fifteen hundred additional copies of assembly bill number fourteen hundred and ninety-three, ordered by resolution of the assembly, April eighteenth, nineteen hundred and eleven; for printing and binding "New York in the War of the Rebellion," ordered by chapter four hundred and thirty-three, laws of nineteen hundred and nine; for printing one thousand additional copies of the preliminary report of the barge canal terminal commission, for the senate; for printing copies of engrossed bills for the state library to replace those destroyed by fire, as ordered by the clerk of the assembly; for printing additional copies of assembly bills to replace those destroyed by fire, as ordered by the clerk of the assembly; for printing fifteen hundred additional copies of assembly bill number fourteen hundred and sixty-one, ordered by resolution of the assembly, April twenty-fourth, nineteen hundred and eleven; for printing fifteen hun-

dred additional copies of assembly bill number seven-  
teen hundred and sixty-four, ordered by resolution of  
the assembly, April twenty-fourth, nineteen hundred  
and eleven; for printing fifteen hundred additional  
copies of senate bill number ten hundred and five, and  
fifteen hundred additional copies of senate bill num-  
ber twelve hundred and twenty-nine, ordered by reso-  
lution of the senate, May eighth, nineteen hundred and  
eleven; for printing five thousand additional copies  
of the second report and minutes of evidence of the  
commission on employers' liability, ordered by con-  
current resolution, May twelfth, nineteen hundred and  
eleven; for printing five thousand additional copies  
of the third report and minutes of evidence of the  
commission on employers' liability, ordered by con-  
current resolution, May twelfth, nineteen hundred and  
eleven; for printing one thousand additional copies  
of assembly bill number fourteen hundred and eighty-  
seven, ordered by resolution of the assembly, May  
fourth, nineteen hundred and eleven; for printing one  
thousand additional copies of assembly bill number  
ten hundred and twenty-nine, ordered by resolution of  
the assembly, May fourth, nineteen hundred and  
eleven; for printing five hundred additional copies  
of the annual report of the state training school for  
girls at Hudson, ordered by resolution of the assem-  
bly, May fourth, nineteen hundred and eleven; for  
printing two hundred additional copies of senate bill  
number eleven hundred, ordered by resolution of the  
senate, May eighth, nineteen hundred and eleven; for  
printing five thousand additional copies of the Lake  
Champlain Tercentenary Celebration Commission,  
ordered by concurrent resolution June thirtieth, nine-  
teen hundred and eleven; and for supplying deficien-  
cies in appropriations therefor, seventy-five thousand  
dollars, or so much thereof as may be necessary; all  
of which is hereby legalized and confirmed and shall

have the same force and effect as if the work therein ordered had been ordered by statute, and shall be paid for at the amounts audited by the comptroller, in accordance with the contract rates fixed therefor in the contracts for legislative and department printing for the years in which such printing and binding was done, to be paid only upon the filing of the proper receipts in full for said items.

75,000 00

## JUDICIAL.

### COURT OF APPEALS.

For deficiency in salaries of the clerks of judges of the court of appeals to September thirtieth, nineteen hundred and eleven, appointed pursuant to section fifty-eight of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, one thousand two hundred six dollars and sixty-five cents, or so much thereof as may be necessary.

1,206 65

For deficiency in appropriation for expenses of offices for judges of the court of appeals, incurred pursuant to section fifty-five of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, three hundred fifty-eight dollars and thirty-four cents, or so much thereof as may be necessary.

358 34

For necessary expenses of the clerks of the judges of the court of appeals, one thousand dollars, or so much thereof as may be necessary, to be paid upon vouchers approved by the judge in whose service such expenses are incurred.

1,000 00

### SUPREME COURT.

For compensation of confidential clerks to resident trial justices of the supreme court in the fifth judicial district, one thousand dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to subdivision four of section two hundred and seventy-



nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.	1,000 00
For compensation of confidential clerks to resident trial justices of the supreme court in the eighth judicial district, the sum of one thousand eight hundred fifty dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to subdivision eight of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.	1,850 00
For deficiency in compensation of two confidential clerks, appointed by the justices of the appellate division of the supreme court in the second judicial department, four thousand dollars, or so much thereof as may be necessary, to be refunded to the treasury pursuant to the provisions of section two hundred and seventy-two of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law.	4,000 00
For Frances Spencer, widow of the late Edgar A. Spencer, justice of the supreme court of the fourth judicial district, who died May fifth, nineteen hundred and eleven, four thousand one hundred sixty-six dollars and sixty-seven cents, being the amount of the annual compensation unpaid of said justice for the calendar year nineteen hundred and eleven, which would have been earned by him had he continued to live until the close of that year and had served as such justice.	4,166 67
For deficiency for additional stenographers in the third and fourth judicial districts, for compensation and for actual and necessary expenses to September thirtieth, nineteen hundred and eleven, twelve hundred dollars, or so much thereof as may be necessary to be refunded to the treasury pursuant to section three hundred seventeen of chapter thirty-five of the laws of nineteen hundred and nine, being the judiciary law, as amended by chapter five hundred forty-three of the laws of nineteen hundred and eleven.	1,200 00

## LIBRARIES.

For libraries of the judges of the court of appeals, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For deficiency in appropriation for the court of appeals library in Syracuse, one thousand one hundred fifty dollars, or so much thereof as may be necessary.	1,150 00
For deficiency in the appropriation for the supreme court law library of the eighth district, located at Buffalo, and for rebinding the books, two thousand dollars, or so much thereof as may be necessary, to be paid upon the certificate of a majority of the trustees of said library.	2,000 00
For deficiency in salary of the librarian of the supreme court law library of the eighth district, located at Buffalo, from April fifth to September thirtieth, nineteen hundred and eleven, one thousand two hundred twenty-two dollars and nine cents, to be refunded to the treasury pursuant to the provisions of chapter fifty-eight, laws of nineteen hundred and eleven.	1,222 09
For deficiency in the appropriation of the law library at Newburg, in the ninth judicial district, and for the purchase of reports, digest and text-books, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
For the purchase of books for the supreme court law library in the county of Queens, two thousand dollars, or so much thereof as may be necessary, to be paid upon the certificate of a majority of the trustees of said library.	2,000 00

## COURT OF CLAIMS.

For deficiency in salary of one employee in the fifth grade from February first to September thirtieth, nineteen hundred and eleven, one hundred twenty dollars.	120 00
For office rent, furniture, blanks, books, stationery and other necessary office supplies, two thousand one hundred dollars, or so much thereof as may be necessary.	2,100 00
For expenses and disbursements paid and to be incurred	

by the clerks, stenographers and marshal outside the city of Albany, seven hundred fifty dollars, or so much thereof as may be necessary.

750 00

For services of extra stenographers, printing, stationery, telephone, messages, insurance and other incidental expenses, one thousand dollars, or so much thereof as may be necessary.

1,000 00

For the judges of the court of claims for their actual, necessary traveling and other expenses and disbursements incurred by them in the discharge of their official duties elsewhere than in Albany, from June twenty-fifth, nineteen hundred and ten, to September thirtieth, nineteen hundred and eleven, in accordance with the provisions of chapter six hundred and eighty-four of the laws of nineteen hundred and ten, five thousand dollars, or so much thereof as may be necessary.

5,000 00

#### COMMISSION ON INFERIOR COURTS.

For deficiency for expenses for the commission to inquire into inferior criminal courts in cities of the first class, appointed pursuant to chapter two hundred and eleven of the laws of nineteen hundred and eight, six thousand dollars, or so much thereof as may be necessary, payable on the approval of the chairman of the commission and the audit of the comptroller.

6,000 00

#### REGULATIVE.

##### STATE DEPARTMENT OF EXCISE.

For expenses incurred in the enforcement of section thirty-three, chapter thirty-nine, laws of nineteen hundred and nine, being the liquor tax law, including attorney's fees and expenses, expert services, storage, transportation and destruction of liquors, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

For the Marine National Bank of Buffalo, New York, for interest erroneously paid on deposits of excise moneys, one thousand ninety dollars and nineteen cents, or so much thereof as may be necessary.

1,090 19

## HEALTH DEPARTMENT.

Four hundred forty-eight dollars and thirty-four cents (re. \$448.34), being the unexpended balance of appropriations made by chapter four hundred and thirty-two and chapter four hundred and thirty-three, laws of nineteen hundred and nine, and eight hundred forty-six dollars and sixty-four cents (re. \$846.64), being the unexpended balance of appropriations made by chapter five hundred and twelve, laws of nineteen hundred and ten, for services of employees, are hereby reappropriated for additional or temporary services in said office, and the further sum of four hundred thirty-seven dollars and fifty cents is hereby appropriated for the same purpose.	437 50
For suppressing epidemics of smallpox and the control and prevention of other infectious and contagious diseases in the several municipalities of the state, twelve thousand five hundred dollars, or so much thereof as may be necessary.	12,500 00
For the control and prevention of ophthalmia neonatorum and the prevention of blindness, two thousand five hundred dollars, or so much thereof as may be necessary.	2,500 00
For the printing of the marriage licenses and records books for town, city and county clerks, and express charges for distribution of same, ordered pursuant to chapter seven hundred and forty-two, laws of nineteen hundred and seven, and article three, chapter nineteen, laws of nineteen hundred and nine, being the domestic relations law, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For conducting, maintaining and transporting the traveling exhibits of tuberculosis for the education of the public and the giving of lectures and the distribution of circulars and pamphlets in connection therewith, ten thousand dollars, or so much thereof as may be necessary.	10,000 00

For enforcing the provisions of chapter three hundred and thirty-five of the laws of nineteen hundred and eleven, relative to cold storage, the following sums are hereby appropriated:

For salaries of inspectors, and traveling expenses, thirty thousand dollars;	30,000 00
for clerks, stenographers, printing of books and forms, et cetera, ten thousand dollars;	10,000 00
for expenses of constructing an experimental cold storage plant, salaries of bacteriologists and investigations into the effect of cold storage on foods, ten thousand dollars.	10,000 00

Ten thousand nineteen dollars and fifty-four cents (\$10,019.54), being the unexpended balance of an appropriation made by chapter five hundred and twelve of the laws of nineteen hundred and ten for the maintenance and equipment of the cancer laboratory and two thousand dollars (\$2,000), being the unexpended balance made by the same chapter for repairs to building, is hereby reappropriated for the maintenance and equipment of State Institute for the Study of Malignant Disease.

#### DEPARTMENT OF LABOR.

Three thousand five hundred dollars, being a part of the unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for the salaries of assistant commissioner of labor, deputies, inspectors, clerks, special agents and statisticians, is hereby reappropriated as follows:

For printing, messages and other incidental office expenses, one thousand dollars, or so much thereof as may be necessary (re. \$1,000); for traveling expenses of officials and employees of the department in the performance of their official duties, under the direction of the commission, two thousand dollars, or so much thereof as may be necessary (re.

\$2,000); for temporary clerical services, five hundred dollars, or so much thereof as may be necessary (re. \$500).

Eight hundred sixteen dollars and four cents, being the unexpended balance of appropriation made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, for the purchase of reports and materials for the bulletins and annual reports of the department, is hereby reappropriated for the purchase of adding machines (re. \$816.04).

For the salary of one employee, seventh grade, from August first to September thirtieth, nineteen hundred and eleven, two hundred fifty dollars.

250 00

### STATE SUPERINTENDENT OF ELECTIONS.

#### FOR THE METROPOLITAN ELECTIONS DISTRICT.

For the state superintendent of elections, for office expenses existing or created during the fiscal year nineteen hundred and ten and not provided for by the appropriation for that year, and in carrying out the provisions of the law relating to the metropolitan elections district, five thousand dollars, or so much thereof as may be necessary.

5,000 00

### PUBLIC SERVICE COMMISSION, FIRST DISTRICT.

For the abolition of grade crossings within the jurisdiction of the public service commission, first district, pursuant to chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven and acts amendatory thereof, two hundred and fifty thousand dollars, or so much thereof as may be necessary.

250,000 00

### PUBLIC SERVICE COMMISSION, SECOND DISTRICT.

Ten thousand dollars, or so much thereof as may be necessary, being an unexpended balance of appropriations made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, chapter

four hundred and thirty-three of the laws of nineteen hundred and nine and chapter five hundred and thirteen of the laws of nineteen hundred and ten, for salaries of additional employees, is hereby reappropriated as follows:

For salaries of additional employees, five thousand dollars (re. \$5,000);

for office expenses, five thousand dollars, or so much thereof as may be necessary (re. \$5,000);

and the further sum of three thousand seven hundred seventy-two dollars and thirty-two cents, being an unexpended balance of an appropriation for salaries of employees specifically mentioned and of employees according to grade, made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, is hereby reappropriated for office expenses (re. \$3,772.32).

Four hundred and twenty-three thousand six hundred forty-seven dollars and forty-six cents, being the unexpended balance of an appropriation made for the abolition of grade crossings within the jurisdiction of the public service commission, second district, by chapter four hundred and thirty-three of the laws of nineteen hundred and nine, is hereby reappropriated for the same purpose (re. \$423,647.46).

For the abolition of grade crossings within the jurisdiction of the public service commission, second district, pursuant to chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven and acts amendatory thereof, four hundred thousand dollars, or so much thereof as may be necessary.

400,000 00

#### STATE BOARD OF TAX COMMISSIONERS.

For furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight including boxes or covering for same, temporary employees and other incidental and necessary office ex-

penses, including rent, eight thousand eight hundred fifty dollars, or so much thereof as may be necessary.

8,850 00

For deficiency in salaries of special agents, two thousand dollars,

2,000 00

### HEALTH OFFICER, PORT OF NEW YORK.

For contingent expenses of the health officer of the port of New York, as provided in section one hundred and forty-four of chapter four hundred and twenty-five of the laws of nineteen hundred and ten, fifty thousand dollars, or so much thereof as may be necessary.

50,000 00

### DEPARTMENT OF WEIGHTS AND MEASURES.

For deficiency in the actual necessary traveling expenses incurred in the performance of their official duties by the superintendent and inspectors, one thousand two hundred dollars, or so much thereof as may be necessary.

1,200 00

For furniture, books, stationery, messages and other office and incidental expenses, three hundred dollars, or so much thereof as may be necessary.

300 00

For the salary of the second deputy superintendent of weights and measures from June first, nineteen hundred and eleven, to October first, nineteen hundred and eleven, five hundred dollars, or so much thereof as may be necessary.

500 00

### EDUCATIONAL.

#### DEPARTMENT OF EDUCATION.

For the salaries of the supervisor of public records and the clerks in his office from the date of their respective appointments to September thirtieth, nineteen hundred and eleven, as follows:

Supervisor, one thousand three hundred dollars;

1,300 00

sixth grade, one employee, three hundred fifty dollars;

350 00

second grade, one employee, one hundred eighty dollars.

180 00



For traveling expenses, postage, stationery, et cetera, three hundred dollars,	300 00
Fifteen thousand dollars, or so much thereof as may be necessary, being the unexpended balance of an appropriation made by chapter five hundred and thirteen of the laws of nineteen hundred and ten, for improvements, repairs and betterments of the Buffalo State Normal School, so as to place the same in a safe and sanitary condition, is hereby reappropriated for the payment of the cost of moving the present buildings of such school, and for grading the grounds, which will be made necessary by the construction of the New Buffalo Normal School. (re. \$15,000.00)	
For repairs, renewals and betterments of buildings, equipment, fixtures, furniture and such additional accommodations in the state normal schools as may be necessary, sixty thousand dollars, or so much thereof as may be necessary.	60,000 00
For repairs and improvements to school buildings and the purchase of necessary supplies for the Indian schools on the Allegany, Cattaraugus, Onondaga, Tonawanda, Tuscarora, Saint Regis, Shinnecock and Poospatuck Indian reservations, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For the salary of the chief archivist, state library, from May first, nineteen hundred and eleven, to September thirtieth, nineteen hundred and eleven, pursuant to chapter one hundred and seventy-seven, laws of nineteen hundred and ten, one thousand two hundred fifty dollars.	1,250 00
For deficiency in the appropriation for common schools, one hundred seventeen thousand dollars, or so much thereof as may be necessary, to be apportioned by the commissioner of education in the same manner as that prescribed for the apportionment of moneys appropriated to common schools by chapter four hundred and thirty-two, laws of nineteen hundred and nine.	117,000 00

For medical examinations, payable only from fees collected pursuant to statute for such examinations, sixteen thousand eight hundred fifty dollars (\$16,850.00), or so much thereof as may be necessary, to be expended as follows:

For expenses of medical examinations, including postage, express, parchment for licenses, printing, engraving, supplies, office expenses of secretary, traveling expenses of examiners, rooms for holding examinations, and services of persons temporarily employed to conduct such examinations, and for expenses of hearings, as specified in article eight, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, five thousand eight hundred fifty dollars, or so much thereof as may be necessary;

5,850 00

for apportionment to the state board of medical examiners, seven thousand dollars, to be divided pro rata according to the number of candidates whose answer papers have been marked by each;

7,000 00

for the salary of the secretary of the state board of medical examiners for the year beginning June first, nineteen hundred and eleven, pursuant to article eight, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, four thousand dollars.

4,000 00

For expenses of dental examinations, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, and for the payment of the surplus to the state dental society, as provided in article nine, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, four thousand four hundred dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations.

4,400 00

For expenses of the veterinary examinations, including postage, express, parchment for licenses, printing, en-

graving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, one hundred twenty dollars, or so much thereof as may be necessary.

120 00

For apportionment on the basis provided in article ten, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, one hundred ninety dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations.

190 00

For expenses of examinations of certified public accountants pursuant to article eight, chapter twenty-five, laws of nineteen hundred and nine, being the general business law, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, two thousand dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations.

2,000 00

For expenses of examination of registered nurses, pursuant to article twelve, chapter forty-nine, laws of nineteen hundred and nine, being the public health law, eight thousand nine hundred dollars (\$8,900.00), or so much thereof as may be necessary, payable only from fees collected for such examinations, to be expended as follows:

For salary of inspector of nurse training schools, one thousand eight hundred dollars;

1,800 00

for expenses of nurse training examinations, including postage, express, parchment for certificates, printing, engraving, supplies, traveling expenses of examiners and inspectors, rooms for holding examinations and services of persons employed temporarily to conduct such examinations, seven thousand one hundred dollars, or so much thereof as may be necessary.

7,100 00

For expenses of examinations of the state board of examiners in optometry, pursuant to article fifteen,

- chapter forty-nine, laws of nineteen hundred and nine, being the public health law, including postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations and services of persons temporarily employed to conduct such examinations, ninety-four dollars, or so much thereof as may be necessary, payable only from fees collected for such examinations; and three thousand two hundred seventy-four dollars and eighty-eight cents, being the unexpended balance of appropriation for expenses of examinations of the state board of examiners in optometry made by chapter four hundred and thirty-three, laws of nineteen hundred and nine, is hereby reappropriated for the purposes mentioned in said act. (re. \$3,274.88) 94 00
- For expenses of the state board of pharmacy, including salaries of employees, postage, express, parchment for licenses, printing, engraving, supplies, traveling expenses of examiners, rooms for holding examinations, and services of persons temporarily employed to conduct such examinations, fifteen thousand dollars, or so much thereof as may be necessary, payable only from fees, fines, penalties, and other moneys derived from the operation of the pharmacy act. 15,000 00
- For the payment of the expenses of moving into temporary offices and of moving from such temporary offices to the educational building, and for the cost of equipping, furnishing and rental of such temporary offices, and for the purchase of supplies, furniture and other necessary materials and the printing of blanks and documents to replace those destroyed or damaged by the capitol fire, thirty-five thousand dollars, or so much thereof as may be necessary. 35,000 00
- For the payment of annuities to teachers in the several state normal schools who have been retired from services under the provisions of article forty-three-a of the education law, four thousand nine hundred dollars, or so much thereof as may be necessary. 4,900 00

For the burial expenses of the late Samuel J. Abbott, the night watchman of the state library, four hundred eighty-two dollars and fifty-eight cents, or so much thereof as may be necessary. 482 58

For state aid for blind pupils in certain institutions, to be paid for the purposes and in the manner provided by section nine hundred and twenty-six of the education law, three thousand six hundred dollars, or so much thereof as may be necessary. 3,600 00

### ALFRED UNIVERSITY.

For addition to building, new kilns, heating plant and other equipment, ten thousand dollars, or so much thereof as may be necessary. 10,000 00

### DEAF AND DUMB.

For deficiency in appropriation for the support and instruction of deaf-mutes at the Institute for Improved Instruction of Deaf-Mutes, in New York city, made by chapter five hundred and twelve of the laws of nineteen hundred and ten, eight hundred five dollars and fifty-four cents, or so much thereof as may be necessary. 805 54

For the Central New York Institution for Deaf-Mutes at Rome, for  
 completing heating plant, one thousand five hundred dollars, or so much thereof as may be necessary; 1,500 00  
 cement walks, one thousand five hundred dollars, or so much thereof as may be necessary; 1,500 00  
 painting and repairs interior and exterior of three main buildings, one thousand five hundred dollars, or so much thereof as may be necessary; 1,500 00  
 renewing floors and ceilings of dormitories, and storage room repairs in main building, one thousand one hundred dollars, or so much thereof as may be necessary; 1,100 00  
 vegetable cooker and accessories, two hundred fifty dollars, or so much thereof as may be necessary; 250 00

steel ceilings and painting in laundry, one hundred fifty dollars, or so much thereof as may be necessary;	150 00
finishing and painting manual training building, five hundred dollars, or so much thereof as may be necessary.	500 00

### HUDSON-FULTON CELEBRATION COMMISSION.

For the Hudson-Fulton celebration commission, two thousand seven hundred fifty dollars, or so much thereof as may be necessary, for the purpose of paying express charges or postage on its allowance of copies of its fourth annual report to the legislature, for printing and binding its official minutes and for incidental expenses. Such money shall be paid by the treasurer on the warrant of the comptroller issued upon requisition signed by the president or acting secretary of the commission, accompanied by a statement of the expenses for the payment of which the money so drawn is to be applied.	2,750 00
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## AGRICULTURAL.

### DEPARTMENT OF AGRICULTURE.

For apportionment to agricultural fairs under the provisions of section three hundred and ten, chapter nine, laws of nineteen hundred and nine, being the agricultural law, two hundred fifty thousand dollars, or so much thereof as may be necessary.	250,000 00
For collection and maintenance of a food exhibit, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For maintenance and extension of farmers' institutes held under the auspices of the commissioner of agriculture, and for holding farmers' educational meetings and demonstrations in co-operation with the state college of agriculture and other institutions and organizations; including inspections of and recommendations concerning farms connected with state institu-	
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tions as provided in the agricultural law, six thousand sixty-four dollars and forty-three cents, which amount is hereby reappropriated from the unexpended balance of the appropriation for salaries made by chapter four hundred and thirty-two of the laws of nineteen hundred and nine, or so much thereof as may be necessary. (re. \$6,064.43)

For enforcing the provisions of article five, chapter nine, laws of nineteen hundred and nine, being the agricultural law, one hundred twenty thousand dollars, or so much thereof as may be necessary; provided, however, that not more than eighty-five thousand dollars of this amount shall be used for the payment of indemnities for cattle destroyed on account of tuberculosis under the order of the commissioner of agriculture in accordance with the provisions of the agricultural law; and not more than thirty-five thousand dollars of this amount shall be used for the payment of indemnities for animals destroyed on account of glanders under the order of the commissioner of agriculture in accordance with the provisions of the agricultural law.

120,000 00

For enforcing the provisions of article three, chapter nine, laws of nineteen hundred and nine, being the agricultural law, relating to dairy products and other matters, three thousand dollars, or so much thereof as may be necessary.

3,000 00

For the commissioner of agriculture, to reimburse Hugh C. Troy, chemist in the department of agriculture, for money erroneously paid into the state treasury, fifty dollars, or so much thereof as may be necessary.

50 00

For the salary of chief of butter substitutes, from August first to September thirtieth, nineteen hundred and eleven, four hundred sixteen dollars and sixty-six cents.

416 66

#### AGRICULTURAL EXPERIMENT STATION AT GENEVA.

For expenses in investigating the condition of grape culture in Chautauqua county, seven thousand five

hundred dollars, or so much thereof as may be necessary.

7,500 00

For purchase of additional land for experimental purposes, fifteen thousand five hundred dollars, or so much thereof as may be necessary.

15,500 00

#### ALFRED UNIVERSITY.

For maintenance, including any deficit for nineteen hundred and ten and nineteen hundred and eleven, four thousand three hundred thirteen dollars, payable from the moneys paid by the school into the treasury pursuant to the provisions of section thirty-seven of chapter fifty-eight of the laws of nineteen hundred and nine, as amended by chapter four hundred and forty of the laws of nineteen hundred and ten, being the state finance law.

4,313 00

For buildings and structures and equipment of same, drainage, fruit trees, farm machinery, live stock and poultry, eight thousand one hundred fifty dollars, or so much thereof as may be necessary.

8,150 00

#### CORNELL UNIVERSITY.

For equipment of the State Veterinary College at Cornell University, three thousand dollars, or so much thereof as may be necessary.

3,000 00

For the State College of Agriculture at Cornell University, for

greenhouse, twenty thousand dollars, or so much thereof as may be necessary;

20,000 00

additions, repairs and betterments, ten thousand dollars, or so much thereof as may be necessary.

10,000 00

For extension work in agriculture, three months, from July first to September thirtieth, nineteen hundred and eleven, three thousand dollars, or so much thereof as may be necessary.

3,000 00

For summer school in agriculture for school teachers, four thousand dollars, or so much thereof as may be necessary.

4,000 00



For providing instruction in physics, chemistry, et cetera, to increased number of students in college of agriculture, twenty thousand dollars, or so much thereof as may be necessary.	20,000 00
For the promotion of extension work on farms and with farmers of the state, fifty thousand dollars, or so much thereof as may be necessary.	50,000 00
The sum of three thousand one hundred seventy-seven dollars and five cents, being the unexpended balance of appropriation made by chapter four hundred and thirty-two, laws of nineteen hundred and nine, for commission of agriculture for the purpose of investigation and extermination of contagious diseases of plants, and San Jose scale and other dangerously infectious or contagious insect pest or pests, is hereby reappropriated for the same purpose. (re. \$3,177.05.)	

#### SAINT LAWRENCE UNIVERSITY.

For buildings and structures, sidewalks, and grading, sixteen thousand dollars, or so much thereof as may be necessary.	16,000 00
For the reimbursement of the Saint Lawrence University for payments made by it for additional equipment of the building used by the school, one thousand six hundred sixty-six dollars and seventy-six cents.	1,666 76

#### MORRISVILLE SCHOOL OF AGRICULTURE.

For heating or lighting plant, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00
For repairs to buildings, three thousand five hundred dollars.	3,500 00
For stable equipment, poultry and swine houses, finishing barn, building roads, water supply, drainage, fences and landscape work, eleven thousand five hundred dollars, or so much thereof as may be necessary.	11,500 00
For farm equipment and live stock, four thousand dollars, or so much thereof as may be necessary.	4,000 00

## STATE FAIR COMMISSION.

For premiums, forty-two thousand dollars, or so much thereof as may be necessary.	42,000 00
For printing and advertising, fifteen thousand dollars, or so much thereof as may be necessary.	15,000 00
For exhibits of state institutions, four thousand dollars, or so much thereof as may be necessary.	4,000 00
For fencing fair grounds, two thousand nine hundred seventy-six dollars and forty cents, or so much thereof as may be necessary.	2,976 40
For improvements in the state institutions and grange building, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For survey lines, grades and test pits, two hundred seventy-three dollars and ninety-nine cents, or so much thereof as may be necessary.	273 99

## DEFENSIVE.

## NATIONAL GUARD.

For deficiency in appropriation, for allowances to headquarters of organizations of the national guard, nine thousand seven hundred eighteen dollars and sixty-six cents, or so much thereof as may be necessary.	9,718 66
For deficiency in appropriation made by chapter five hundred and twelve of the laws of nineteen hundred and ten, for allowance to officers and organizations of the national guard, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00
For allowances to officers to assist in uniforming and equipping themselves and for organizations for the purpose of defraying necessary military expenses, fifteen thousand dollars, or so much thereof as may be necessary.	15,000 00
For actual and necessary expenses of the national guard and the office of the adjutant-general, forty-five thousand dollars, or so much thereof as may be necessary.	45,000 00
For completing and binding the personal records of the volunteers from this state in the war of the rebellion	

and for printing and binding the same in book form, twelve thousand dollars, or so much thereof as may be necessary.	12,000 00
For clerical services and expenses in connection with disbursements of refund by United States to volunteers of the Spanish war, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For the armory commission for repairs and improvements and betterments of the State arsenal, armories, camp grounds and rifle ranges throughout the state, and for necessary office and traveling expenses of the commission, eighty-five thousand dollars, or so much thereof as may be necessary.	85,000 00
For securing additional land for the construction of pistol ranges, the erection of backstops, clearing of lands and necessary improvements at the Blauvelt rifle range, thirty thousand dollars, or so much thereof as may be necessary.	30,000 00
For Adrian Sizer for services and necessary traveling expenses in prosecuting claims of the state of New York against the United States government, eleven thousand seven hundred sixty-seven dollars and twenty cents, or so much thereof as may be necessary.	11,767 20
For Fred J. Jones, to supply deficiency in the appropriation provided by chapter six hundred and fifty-four of the laws of eighteen hundred and ninety-nine, to be paid upon filing of the proper vouchers in accordance with the provisions of such chapter, three hundred fifty-seven dollars, or so much thereof as may be necessary.	357 00
For rental of temporary offices of the adjutant-general at number twenty-five Washington avenue for the month of April, nineteen hundred and eleven, three hundred dollars.	300 00
For rental of permanent offices of the adjutant-general at number one hundred and seventy-six State street, leased for one year from May first, nineteen hundred and eleven, caused by removal from the capitol and	

turning over of rooms numbers two hundred and eleven to two hundred and fifteen to the attorney-general by the trustees of public buildings, two thousand eight hundred dollars, or so much thereof as may be necessary.	2,800 00
For rental of permanent headquarters, division national guard, at number one hundred and seventy-four State street, leased for one year from May first, nineteen hundred and eleven, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
For lighting of the above premises and cartage expense in connection with moving, five hundred dollars, or so much thereof as may be necessary.	500 00
For the pay, subsistence, transportation and other expenses of troops at the capitol after the fire, eight thousand seven hundred dollars, or so much thereof as may be necessary.	8,700 00
For deficiency in appropriation made by chapter five hundred and twelve, laws of nineteen hundred and ten, payment of pensions to members of the National Guard and Naval Militia and their care when injured or disabled in the service, and for the expense of examination of claims, three thousand seven hundred and fifty dollars, or so much thereof as may be necessary.	3,750 00
For the adjutant-general to defray the expenses of an inspection of the National Guard, while on duty at Pine Camp, Jefferson county, New York, by a joint committee of the senate and assembly, five hundred dollars.	500 00

## NAVAL MILITIA.

For the necessary expenses of the summer cruise of the naval militia, five thousand dollars, or so much thereof as may be necessary.	5,000 00
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## GRAND ARMY OF THE REPUBLIC.

For the department of New York, Grand Army of the Republic, for incidental office expenses, including	
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postage, printing, telegraph and telephone charges,  
two thousand five hundred dollars, or so much thereof  
as may be necessary.

2,500 00

### **PENAL.**

#### **COMMISSION ON NEW PRISONS.**

For salaries of the:

commissioners, four thousand dollars, or so much  
thereof as may be necessary;

4,000 00

secretary, seven hundred and fifty dollars;

750.00

clerks and stenographers, two thousand dollars;

2,000 00

laborers and farm expenses, two thousand five hun-  
dred dollars, or so much thereof as may be neces-  
sary;

2,500 00

repairs to buildings and fences, five hundred dollars,  
or so much thereof as may be necessary.

500 00

For traveling and allowed expenses of the commission  
and employees, two thousand dollars, or so much  
thereof as may be necessary.

2,000 00

For furniture, books, blanks, stationery, printing, mes-  
sages, postage and transportation of letters, official  
documents and other matter sent by express or freight,  
including boxes or covering for same, one thousand  
dollars, or so much thereof as may be necessary.

1,000 00

#### **STATE PRISON COMMISSION.**

For expenses of sending delegates to the next national  
congress at Omaha, three hundred dollars, or so much  
thereof as may be necessary.

300 00

For expert advice on plans, specifications, sanitation,  
ventilation and other special expenses relating to plans  
for penal institutions, five hundred dollars, or so much  
thereof as may be necessary.

500 00

#### **STATE PROBATION COMMISSION.**

For deficiency in the appropriation for the traveling ex-  
penses of the members and employees of the commis-  
sion, the sum of four hundred dollars, or so much  
thereof as may be necessary.

400 00

For temporary services, the sum of seventy-five dollars,  
or so much thereof as may be necessary. 75 00

## PRISON DEPARTMENT.

For the superintendent of state prisons, for deficiency  
in appropriation for furniture, books, blanks, print-  
ing, stationary, messages, postage and transportation  
of letters, official documents and other matter sent  
by express or freight, including boxes or covering for  
same, and other necessary and incidental office ex-  
penses, five hundred dollars, or so much thereof as  
may be necessary. 500 00

For securing additional instruction in the several state  
prisons, four thousand dollars, or so much thereof as  
may be necessary, to be expended under the direction  
of the superintendent of state prisons. 4,000 00

For providing current literature for the several state  
prisons, two thousand dollars, or so much thereof as  
may be necessary, to be expended under the direction  
of the superintendent of state prisons. 2,000 00

For assistant physician for Sing Sing prison, one thou-  
sand five hundred dollars. 1,500 00

For Matteawan State Hospital for Insane Criminals,  
for deficiency in appropriation for support and main-  
tenance, eleven thousand dollars. 11,000 00

For electric wiring at the Matteawan State Hospital,  
one thousand two hundred dollars, or so much thereof  
as may be necessary. 1,200 00

For salary of farm superintendent at Great Meadow  
prison, one thousand eight hundred dollars. 1,800 00

For Lewis E. Griffith, for counsel fees and expenses  
necessarily incurred by him in connection with cer-  
tain charge of irregularities on the part of the super-  
intendent of state prisons in the adoption of plans for  
the new state prison at Bear Mountain, which charges  
were referred by the governor to Edward Sanford  
for investigation, two thousand five hundred dollars,  
or so much thereof as may be necessary, which shall be

payable on the audit and certificate of the attorney-general.	2,500 00
For the payment of expenses incurred and paid by the county of Clinton in the criminal proceedings conducted in the said county against certain inmates of Clinton prison, pursuant to the provisions of sections sixteen and seventeen of the prison law, eighty-one dollars, or so much thereof as may be necessary.	81 00

### PRISON SCHOOLS.

For the salaries of three head teachers, six thousand dollars.	6,000 00
For school and library books, one thousand two hundred dollars.	1,200 00
For school apparatus and supplies, one thousand two hundred dollars.	1,200 00
For salary of one head teacher at State Prison for Women, seven hundred and fifty dollars.	750 00

### MAINTENANCE OF CONVICTS.

For maintenance of convicts sentenced to penitentiaries, as provided by section three hundred and twenty-four of chapter forty-seven of the laws of nineteen hundred and nine, being the prison law, and to convicts sentenced under sections twenty-three hundred and seventy and twenty-three hundred and seventy-one of chapter eighty-eight of the laws of nineteen hundred and nine, being the penal law, forty thousand dollars, or so much thereof as may be necessary.	40,000 00
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### CURATIVE.

#### STATE COMMISSION IN LUNACY.

For improvement of water supply at the Hudson River State Hospital, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00
For improvement of water supply at the Rochester State Hospital, one thousand one hundred eighty-five dollars, or so much thereof as may be necessary.	1,185 00

For reimbursing the maintenance fund of the Utica State Hospital, seventy-two thousand six hundred forty dollars and thirty cents, being the amount advanced therefrom to maintain the manufacturing departments at the Utica State Hospital for the period between April first, nineteen hundred and ten, and March thirty-first, nineteen hundred and eleven, is hereby appropriated from the receipts of the manufacturing departments of the same hospital paid into the state treasury by reason of section thirty-seven of chapter fifty-eight of the laws of nineteen hundred and nine, being the state finance law.

72,640 30

For reimbursing the maintenance fund of the Rochester State Hospital, thirty thousand eight hundred seventeen dollars and sixteen cents, being the amount advanced therefrom to maintain the manufacturing departments at the Rochester State Hospital for the period between April first, nineteen hundred and ten, and March thirty-first, nineteen hundred and eleven, is hereby appropriated from the receipts of the manufacturing departments of the same hospital paid into the state treasury by reason of section thirty-seven of chapter fifty-eight of the laws of nineteen hundred and nine, being the state finance law.

30,817 16

Five hundred ten thousand dollars, being the board moneys and miscellaneous receipts of the state hospitals during the year ending September thirtieth, nineteen hundred and eleven, paid into the state treasury pursuant to section thirty-seven of chapter fifty-eight of the laws of nineteen hundred and nine, being the state finance law, is hereby appropriated and made available to supply deficiencies in the maintenance account of the state hospitals during the year ending September thirtieth, nineteen hundred and eleven.

510,000 00

For reimbursing state hospital stewards for expenses incurred by them while acting as assistant treasurers in payment of premiums on bonds required by the state comptroller during the year ending September



thirtieth, nineteen hundred and eleven, three hundred sixty-seven dollars and fifty cents.	367 50
For the expenses of a campaign of education looking to the prevention of insanity, to be expended under the direction of the state commission in lunacy, two thousand five hundred dollars.	2,500 00
One thousand dollars, or so much thereof as may be necessary, is hereby appropriated to prevent overcrowding by transfers between hospitals for the insane, to be expended under the direction of the state commission in lunacy.	1,000 00
One thousand dollars, being the estimated amount necessary to supplement the original appropriation of three thousand dollars made by chapter five hundred and seven of the laws of nineteen hundred and ten for installation of underground feeder cables at the Buffalo State Hospital, is hereby appropriated.	1,000 00
Six hundred dollars, or so much thereof as may be necessary, representing the estimated deficiency in the appropriation made by chapter five hundred and twelve of the laws of nineteen hundred and ten for office expenses, including rent, telephone, stationery and postage, in the office of the state board of alienists is hereby appropriated.	600 00
For the state commission in lunacy, for the services of expert inspectors of buildings and repairs, for engineering and supplies, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
The unexpended balances of former appropriations are hereby reappropriated for the same purposes, as follows:	
For the state commission in lunacy by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for extraordinary repairs and emergencies at the state hospitals, twelve thousand three hundred forty-five dollars and fifty-three cents (re. \$12,345.53).	

For the Utica State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for barn and silos, one thousand one hundred eleven dollars and seventy-eight cents (re. \$1,111.78).

For the Willard State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for new engine and dynamo, four hundred eighty-five dollars and fifty-seven cents. (re. \$485.57).

For the Hudson River State Hospital by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for spur track and trestle, one thousand four hundred seven dollars (re. \$1,407);

for equipment of new power-house, one hundred forty-six dollars and fifty-six cents (re. \$146.56);

for conduits and piping, central group, one thousand four hundred and ninety-two dollars and sixty-eight cents (re. \$1,492.68);

by chapter five hundred and sixty-four of the laws of nineteen hundred and seven, reappropriated by chapter four hundred and thirty-three of the laws of nineteen hundred and nine, for renewals to electric lines, three thousand dollars (re. \$3,000);

for house for filter beds, eight hundred dollars (re. \$800).

For the Binghamton State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for nurses' home and equipment, one thousand three hundred seventy-eight dollars and twenty-five cents (re. \$1,378.25);

for water supply and new lines, one thousand six hundred eighty-seven dollars and seventy-four cents (re. \$1,687.74);

for lighting and heating plant, five hundred seventy-four dollars and thirteen cents (re. \$574.13);

for telephone conduits and cables, two hundred seventy-six dollars and ninety-four cents (re. \$276.94);

by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for renewal of return main, four thousand three hundred eighty-five dollars and eighty-seven cents (re. \$1,385.87).

For the Kings Park State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for new laundry, four thousand two hundred sixty-six dollars (re. \$4,266);

by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for additional accommodations for six hundred chronic patients, one hundred twenty-six thousand seventy-six dollars and twenty-eight cents (re. \$126,076.28);

for equipment, new boiler-house, three thousand five hundred seventy-seven dollars (re. \$3,577);

for conduits and steam piping, boiler-house, six thousand seven hundred sixty dollars and thirty-three cents (re. \$6,760.33).

For Central Islip State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for feed barn with root cellar, one thousand six hundred forty dollars (re. \$1,640);

by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for additional accommodations for six hundred chronic patients, sixteen thousand one hundred eighty-seven dollars and sixty-two cents (re. \$16,187.62).

For Middletown State Hospital by chapter four hundred and thirty-three of the laws of nineteen hundred and nine for nurses' home and equipment, three thousand two hundred sixty-six dollars and ninety-three cents (re. \$3,266.93).

For Manhattan State Hospital by chapter four hundred and sixty-two of the laws of nineteen hundred and nine for four cottages, twenty-six thousand three hundred ninety-six dollars and forty-four cents (re. \$26,396.44);

for additional medical quarters, three thousand one hundred ninety-one dollars and thirty-eight cents (re. \$3,191.38).

### RECEPTION HOSPITAL, NEW YORK CITY.

One hundred fifty thousand dollars, appropriated for the purchase of a site for reception hospital, New York city, by chapters seven hundred and sixty, laws of nineteen hundred and four; five hundred and seventy-eight, laws of nineteen hundred and seven; four hundred and thirty-three, laws of nineteen hundred and nine, is hereby reappropriated. (Re. \$150,000.)

### CHARITABLE.

#### STATE BOARD OF CHARITIES.

One thousand five hundred seventy-one dollars and nine cents, being the unexpended balance of the appropriation made by chapter five hundred twelve of the laws of nineteen hundred and ten, for salaries, is hereby reappropriated for the following purposes:  
For postage and transportation, two hundred dollars (re. \$200).

for traveling expenses of inspectors, one thousand three hundred seventy-one dollars and nine cents, or so much thereof as may be necessary (re. \$1,371.09).

#### CHARITIES BUILDING COMMITTEE.

For the salary of the secretary, five hundred dollars.	500 00
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#### FISCAL SUPERVISOR OF STATE CHARITIES.

For deficiency in salaries of four employees of the fifth grade, from January first to October first, nineteen hundred and eleven, ninety dollars.	90 00
For deficiency in salary of one employee of the third grade from January first to October first, nineteen hundred and eleven, ninety dollars.	90 00

# PURCHASING COMMITTEE OF STATE CHARITABLE INSTITUTIONS.

For deficiency in the salary of one employee of the sixth grade from January first to October first, nineteen hundred and eleven, two hundred twenty-five dollars.	225 00
For window in purchasing committee's room, five hundred dollars, or so much thereof as may be necessary.	500 00

## LETCHWORTH VILLAGE, THIELLS.

Two thousand eighty-two dollars and sixty-five cents, being the unexpended balance of the appropriation made by chapter four hundred and fifty-five of the laws of nineteen hundred and nine, for a spur track from the railroad to the site, is hereby reappropriated for the same purpose (re. \$2,082.65).	
For the acquisition of additional land for the protection of the water supply system of the village of Letchworth, Thiells, one thousand five hundred dollars, or so much thereof as may be necessary.	1,500 00
For deficiency in maintenance for the fiscal year ending September thirtieth, nineteen hundred and eleven, made necessary by the increase in population, ten thousand dollars.	10,000 00

## SYRACUSE STATE INSTITUTION FOR FEEBLE-MINDED CHILDREN.

For deficiency for clothing resulting from the opinion of the attorney-general, which prohibits rendering bills for clothing in advance, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00
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## WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION.

For seats in the assembly hall, three hundred eighty-four dollars, or so much thereof as may be necessary.	384 00
For stained glass windows for assembly hall, six hundred dollars, or so much thereof as may be necessary.	600 00
For repairs and equipment, one thousand dollars, or so much thereof as may be necessary.	1,000 00

## REFUNDS.

The following sums shall be paid from the money paid into the treasury of the state under section thirty-seven of the state finance law, as added by chapter five hundred and eighty, laws of eighteen hundred and ninety-nine, and amended by chapter five hundred and sixty-one of the laws of nineteen hundred and seven, to be expended for maintenance:

For the New York State School for the Blind at Batavia, one thousand seven hundred dollars.	1,700 00
For the New York State Reformatory at Elmira, thirty-five thousand dollars.	35,000 00
For the New York State Hospital for the treatment of incipient pulmonary tuberculosis at Raybrook, ninety-three thousand eight hundred forty-four dollars and seven cents.	93,844 07
For the Craig Colony for Epileptics at Sonyea, twenty-one thousand dollars.	21,000 00
For the Syracuse State Institution for Feeble-Minded Children at Syracuse, four thousand five hundred dollars.	4,500 00
For the New York State Soldiers and Sailors' Home at Bath, one hundred seventy-one thousand one hundred seventy-eight dollars and two cents.	171,178 02
For the New York State Woman's Relief Corps Home at Oxford, three thousand eight hundred three dollars and twelve cents.	3,803 12

## REAPPROPRIATIONS.

The unexpended balances of former appropriations are hereby reappropriated for the same purposes as follows:

For the Western House of Refuge for Women at Albion, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for equipping cottage, hospital and industrial building, one thousand two hundred forty-nine dollars and thirty-six cents (re. \$1,249.36);

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- for sewage disposal, four thousand nine hundred eighty-two dollars and seventy cents (re. \$4,982.70);
- for repairs, equipment, et cetera, fifty-one dollars and sixteen cents (re. \$51.16);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for cottage for inmates, sixty-three dollars and sixty-four cents (re. \$63.64);
- For the New York State School for the Blind at Batavia, by chapter four hundred and thirty-three, laws of nineteen hundred and nine; for repairs to sewer, three hundred thirty-nine dollars and seventy-eight cents (re. \$339.78);
- for laundry equipment, two hundred twenty-nine dollars and seventy-seven cents (re. \$229.77).
- For the New York State Reformatory for Women at Bedford, by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for sewage disposal, five hundred ninety-eight dollars and thirty cents (re. \$598.30);
- for two cottages, four hundred sixty-one dollars and eighteen cents (re. \$461.18);
- by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for cottage for inmates, one thousand nine hundred fifty-eight dollars and eleven cents (re. \$1,958.11);
- for outside connections, five hundred twenty-five dollars (re. \$525.00);
- for furnishings for industrial building, et cetera, seven hundred three dollars and fifty-nine cents (re. \$703.59);
- for grading and seeding new campus, two hundred eleven dollars and fifty-six cents (re. \$211.56).
- For the New York State Reformatory at Elmira, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for reconstruction, interior of hospital, six thousand six hundred seventy-eight dollars and thirty cents (re. \$6,678.30);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for cell blocks, one hundred forty-six dollars and fifty-six cents (re. \$146.56);

for plumbing, et cetera, seven hundred sixty-five dollars and seventy cents (re. \$765.70);

for plumbing, cell blocks, one hundred sixty-four dollars and thirty-one cents (re. \$164.31).

For the New York State Training School for Girls at Hudson, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for new boiler-house, coal pocket, et cetera, sixteen thousand six hundred fifty-one dollars and ninety-eight cents (re. \$16,651.98);

for switch to coal pockets, et cetera, six thousand three hundred fifty dollars (re. \$6,350);

for trunk conduit, one thousand three hundred three dollars and ninety-one cents (re. \$1,303.91);

for repairs and equipment, et cetera, four hundred thirty-seven dollars and eighty-seven cents (re. \$437.87);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for furnishings for cottages, sixty dollars and ninety-three cents (re. \$60.93).

For the State Agricultural and Industrial School at Industry, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for fire extinguishers, et cetera, two thousand six hundred eighty dollars (re. \$2,680);

for water supply, seven hundred seventy-one dollars and forty-four cents (re. \$771.44);

for cottages for boys, thirteen thousand four hundred twenty-three dollars and sixty cents (re. \$13,423.60);

by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for under and over passage, five thousand dollars (re. \$5,000);

for shed for tools, three hundred eighty-one dollars and forty-three cents (re. \$381.43);



- for removal of plumbing fixtures, seven hundred five dollars and sixty-five cents (re. \$705.65);
- for trade school and laundry equipment, one thousand eight hundred sixty-four dollars and eighty-four cents (re. \$1,864.84);
- for site and buildings, five hundred thirteen dollars and seventy-four cents (re. \$513.74);
- For the Thomas Indian School at Iroquois, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for boys' dormitory, fifty-seven dollars and thirty-five cents (re. \$57.35);**
- For the Eastern New York Reformatory at Napanoch, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for mess hall and kitchen, twelve thousand two hundred fifty-four dollars and six cents (re. \$12,254.06);**
- for sewers, one thousand five hundred dollars (re. \$1,500);
- for electric appliances and cable, seven thousand seven hundred forty dollars and twenty-five cents (re. \$7,740.25);
- for purchase of land, two thousand six hundred and ninety-eight dollars (re. \$2,698);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for concrete wall, seventy dollars and seventy-one cents (re. \$70.71);
- for grading, et cetera, two hundred eighty-seven dollars and thirty-one cents (re. \$287.31);
- for furnishing mess hall and kitchen, two hundred sixty-three dollars and ninety-six cents (re. \$263.96);
- for furnishing and equipping storehouse, two hundred fifty-seven dollars and thirty-three cents (re. \$257.33);
- for equipping trade school and shop building, six hundred ten dollars and fifty-four cents (re. \$610.54);
- For the New York State Custodial Asylum for Feeble-Minded Women at Newark, by chapter four hun-**

- dred and sixty-one, laws of nineteen hundred and nine, for grading and seeding, four hundred forty-one dollars and seventeen cents (re. \$441.17);
- for sewage disposal plant, one thousand fifty-five dollars and eighteen cents (re. \$1,055.18);
- for fire-escapes, four hundred fifty-five dollars and sixty cents (re. \$455.60);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for sewage disposal plant, seventy-eight dollars and eighty-six cents (re. \$78.86);
- For the New York State Woman's Relief Corps Home at Oxford, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for equipment, hospital building, two thousand five hundred thirty-one dollars and twelve cents (re. \$2,531.12);
- for water supply, two thousand twelve dollars and five cents (re. \$2,012.05);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for conduits, pipes, et cetera, sixty-six dollars and fifty-six cents (re. \$66.56);
- For the New York State Hospital for the treatment of Incipient Pulmonary Tuberculosis at Raybrook, by chapter one hundred and fifty-four, laws of nineteen hundred and nine, for railroad switch, five hundred two dollars and seventy cents (re. \$502.70);
- for electric unit, et cetera, one hundred ninety-two dollars and eighty-one cents (re. \$192.81);
- for sewage disposal bed, six hundred fifty dollars (re. \$650);
- for equipping west unit, nine hundred ninety-eight dollars and eighty-nine cents (re. \$998.89);
- for equipping east unit, one thousand one hundred ninety-eight dollars and fifty-eight cents (re. \$1,198.58);
- by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for equipment of laboratory, one thousand dollars (re. \$1,000);

- for construction of fire line, two hundred nine dollars and thirty-two cents (re. \$209.32);
- for removing copper gutters, et cetera, six hundred fifty-four dollars and thirty-five cents (re. \$654.35);
- by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for construction and equipment, two thousand one hundred seventy-one dollars (re. \$2,171).
- by chapter four hundred and thirty-three, laws of teen hundred and nine, for boilers and connection, one thousand dollars (re. \$1,000);
- for repairs and equipment, five hundred forty dollars and thirty-three cents (re. \$540.33);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for water supply system, one thousand dollars (re. \$1,000).
- For the Craig Colony for Epileptics at Sonyea, by chapter four hundred and sixty-one, laws of nineteen hundred and nine, for construction of roads, et cetera, one thousand five hundred thirteen dollars and seven cents (re. \$1,513.07);
- for new filter material, five hundred eight dollars and fifty cents (re. \$508.50);
- for two tubercular buildings, seventy-three dollars and ninety-one cents (re. \$73.91);
- by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for stone roadway, one thousand thirty-six dollars and ninety-two cents (re. \$1,036.92).
- For the New York State Hospital for the Care of Crippled and Deformed Children at West Haverstraw, by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for grading, sewerage and drainage, two thousand two hundred twenty-seven dollars (re. \$2,227).

#### SALARY CLASSIFICATION COMMISSION.

For the salary classification commission, for salaries, printing, postage and other expenditures of the com-

mission, established in accordance with the provisions of chapter fifty-eight of the laws of nineteen hundred and nine, constituting chapter fifty-six of the consolidated laws, one thousand one hundred sixty dollars, or so much thereof as may be necessary.

1,160 00

### PROTECTIVE.

#### PUBLIC BUILDINGS.

For the compensation of the secretary to the trustees of public buildings, one thousand dollars.

1,000 00

For services of orderlies, watchmen, engineers, firemen, carpenters, machinists, electricians, mechanics, cleaners, laborers, porters and other necessary employees in the care and maintenance of the public buildings, three thousand five hundred dollars, or so much thereof as may be necessary.

3,500 00

Twenty-seven thousand dollars is hereby appropriated to reimburse the fund of the superintendent of public buildings for furniture, repairs, coal, fuel, water, machinery, fixtures, appliances, supplies and other necessary and incidental expenses, being moneys expended for erecting a garage, installing new bathrooms, new furnishings at the executive mansion, examining and repairing one engine at the capitol, and for deficiency in appropriation for the fiscal year ending September thirtieth, nineteen hundred and ten.

27,000 00

For renewals, repairs and improvements of the plumbing and drainage systems of the public buildings and of the fixtures and appliances in connection therewith, to be expended in the discretion of the superintendent of public buildings, two thousand five hundred dollars, or so much thereof as may be necessary.

2,500 00

For reimbursing the painting fund of the superintendent of public buildings, five hundred dollars, being the amount expended therefrom for repairing and finishing the portraits in the executive chamber.

500 00

For reimbursing the general salaries fund of the superintendent of public buildings, six thousand two hundred and fifty dollars, being the amount necessary for additional employees during the session of the legislature of nineteen hundred and eleven.	6,250 00
For increase in salary of the chief carpenter from April first to September thirtieth, nineteen hundred and eleven, one hundred dollars.	100 00
For increase in salary of one employee now in the fifth grade from April first to September thirtieth, nineteen hundred and eleven, one hundred fifty dollars.	150 00
One thousand six hundred twenty-three dollars and sixty cents, being the unexpended balance of an appropriation made by chapter five hundred and thirteen of the laws of nineteen hundred and ten, for repairing and resetting the stone balustrades of the capitol where necessary, or so much thereof as may be necessary, is hereby reappropriated for painting and other incidental repairing and furnishing needed to preserve and renew the buildings, premises and property in charge of the superintendent of public buildings (re. \$1,623.60), and the further sum of five thousand dollars, to be expended under his direction, is hereby appropriated for the same purpose.	5,000 00
For the ordinary maintenance and extraordinary repairs of the senate house at Kingston, to be expended in the discretion of the superintendent of public buildings, three hundred dollars, or so much thereof as may be necessary.	300 00
For the maintenance and medical and surgical care by hospitals of such officers, members and employees of the several departments, bureaus and branches of the state government, as may be injured or become sick while in the performance of their duties, two thousand dollars, or so much thereof as may be necessary, said persons to be admitted upon the certificate of the superintendent of public buildings, after proper evidence of disability shall have been filed with such	

superintendent over the signature of the head of the department, bureau or branch of said government in which such duties were performed, or over the signature of his deputy, and of a physician or surgeon duly authorized to practice medicine in the state of New York.

2,000 00

For the care of the departments of the state government compelled to secure quarters outside of capitol on account of fire, same to be expended in the discretion of the superintendent of public buildings, six thousand four hundred twenty-six dollars, or so much thereof as may be necessary.

6,426 00

Thirty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury, not otherwise appropriated, for installing standpipes and fire pump, emergency repairs to electric wiring, removing and storing lighting fixtures, altering and equipping offices for the attorney-general formerly occupied by adjutant-general, including the moving and installing of office equipment for these departments, and for other permanent repairs in the state capitol damaged by fire.

35,000 00

Fifteen hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for improvements to electric wiring in the executive mansion, including the construction of transformer room and the placing of overhead feeder cables under ground.

1,500 00

#### TRUSTEES OF PUBLIC BUILDINGS.

For the salary of the auditor of accounts presented for rebuilding the capitol destroyed or damaged by the recent fire, and accounts of the new education building and boiler-house, three thousand five hundred dollars.

3,500 00

## FOREST, FISH AND GAME COMMISSION.

For the payment of extra expenses of game protectors in the discharge of duty outside their respective districts and the payment of special protectors and wardens when such protectors and special protectors and wardens are acting under the orders of the commissioner or chief protector, nine thousand dollars, to be paid from the moneys received from the sale of hunters' licenses.	9,000 00
For the payment of moieties, justices, constables, attorneys, witnesses, court costs, surveying and securing evidence for prosecutions for violations of the forest, fish and game law, thirty thousand dollars, or so much thereof as may be necessary, to be paid from moneys received from fines and penalties, pursuant to chapter one hundred and thirty of the laws of nineteen hundred and eight, and chapter twenty-four of the laws of nineteen hundred and nine, being the forest, fish and game law.	30,000 00
For making surveys in protecting the state's title and interest in state land in the forest preserve, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For the payment of salaries of two stenographers in the forestry bureau, twelve hundred dollars, or so much thereof as may be necessary.	1,200 00
For rent and office expenses of legal department, one thousand dollars.	1,000 00
For general expenses, traveling, surveying, nursery work, for reforesting state lands, for supplying to citizens of the state, at cost, trees to be planted under the direction and regulation of the forest, fish and game commission, and for preparing and distributing instructive pamphlets on forestry subjects, and for making field studies, securing volume and yield tables, determining rate of forest growth and conditions, five thousand dollars, or so much thereof as may be necessary.	5,000 00

For maintenance and expenses of game bird farm, the distribution of birds and supplying food for and caring for the state's wild game, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For the purpose of purchasing a patrol boat for the use of the bureau of marine fisheries in Long Island waters, three thousand five hundred dollars, or so much thereof as may be necessary.	3,500 00
For completing new map of the forest preserve in the Catskills, five hundred dollars, or so much thereof as may be necessary.	500 00
For traveling expenses, services, supplies and equipment for the enforcement of the fire provisions of the forest, fish and game law, fifty-five thousand dollars, or so much thereof as may be necessary.	55,000 00
For general expenses for the forestry bureau, traveling, surveying, nursery work, reforesting lands, publishing instructive pamphlets, furnishing trees at cost to citizens of the state, making field studies and yield tables, determining the rate of growth of trees, et cetera, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For general office expenses, furniture, books, blanks, printing, stationery, messages, postage and transportation of letters, official documents and other matter sent by express or freight, including boxes or covering for same and other necessary and incidental office expenses, six thousand dollars, or so much thereof as may be necessary.	6,000 00
For the expenses of game protectors, wardens and special protectors, fifty-five thousand seven hundred fifty dollars, or so much thereof as may be necessary.	55,750 00
For Louis Marshall for legal services and disbursements in the case of the Saranac Land and Timber Company versus James A. Roberts as state comptroller, two thousand five hundred eighteen dollars and forty-five cents.	2,518 45



Nine hundred eighteen dollars and seventy-eight cents, being the unexpended balance of an appropriation made by chapter four hundred and thirty-three of the laws of nineteen hundred and nine, for continuing the survey, improving and plotting of state lands now under lease or to be leased in the future for the shell-fish industry, is hereby reappropriated for the same purpose. (Re. \$918.78.)

For the state's one-half due the various towns for expenses suppressing forest fires, pursuant to section seventy-one of chapter one hundred and thirty of the laws of nineteen hundred and eight, two thousand dollars, or so much thereof as may be necessary. 2,000 00

#### LAND OFFICE.

For payment of assessments on state property for local improvements made, when approved by the comptroller, pursuant to section twenty-one, chapter fifty, laws of nineteen hundred and nine, being the public lands law, two thousand three hundred dollars, or so much thereof as may be necessary. 2,300 00

For investigations of claims for assessments filed in the office of the comptroller, two hundred dollars, or so much thereof as may be necessary. 200 00

#### INDIAN AFFAIRS.

For the agent of the Indians on the Onondaga reservation, for the purchase and distribution of salt to Indians, fifty dollars. 50 00

#### NLAGARA RESERVATION.

For water, light and heat for public comfort, stations one and two, two thousand dollars, or so much thereof as may be necessary. 2,000 00

For such necessary improvements to elevator shaft and tunnel, including ventilating and lighting, as are advocated by the state architect, three thousand dollars, or so much thereof as may be necessary. 3,000 00

## SARATOGA MONUMENT.

For maintenance, repairs and improvements, five hundred dollars, or so much thereof as may be necessary. 500 00

## SARATOGA SPRINGS STATE RESERVATION.

For the salary of secretary, two thousand dollars. 2,000 00

For the traveling expenses of the commission, incidental office expenses, expense necessary for the protection of the various properties which have been and will be acquired by the commission, including service of watchmen, insurance, examinations and reports on the property, expenses for the supervision and management of the property, also expenses for proper laying out of the reservation and the surveys necessary, the cost of the reconstruction of the dam on the Carlsbad Spring property, construction of a proper building over the Carlsbad Spring, removing tenement property, rubbish on High Rock and adjoining spring properties, twenty-four thousand dollars, or so much thereof as may be necessary. 24,000 00

For Nash Rockwood, for professional services from January first, nineteen hundred and nine, to September first, nineteen hundred and ten, in the following actions in the supreme court, as special counsel in the cases of the People: People versus Lincoln Spring Company, People versus Geysers Natural Gas Company, People versus New York Carbonic Gas Company, People versus Carbonic Gas Company, Congress Springs Company, People versus Harry M. Levingsten, People versus Mary Augusta Patterson, People versus Lindsley Natural Gas Company versus The Attorney-General et alii, People versus Natural Carbonic Gas Company et alii, People versus Emily H. Hathorn et alii, People versus Lincoln Spring Company, People versus Emily H. Hathorn, seven thousand dollars, or so much thereof as may be necessary. 7,000 00

For C. S. and C. C. Lester, for legal services and disbursements and expenses, and Lindsley Natural Gas

Company versus The Attorney-General et alii, seven thousand two hundred six dollars and sixty cents, or so much thereof as may be necessary.

7,206 60

### FIRE ISLAND STATE PARK.

For the commissioners, for salaries and services of officers and employees, five thousand eight hundred thirty dollars, or so much thereof as may be necessary.

5,830 00

For repairs, traveling, office and incidental expenses, three thousand one hundred seventy dollars or so much thereof as may be necessary.

3,170 00

### LETCHWORTH PARK.

For the American Scenic and Historic Preservation Society, for superintendent, caretakers and laborers, for repairs and maintenance of roads, paths, bridges and buildings, for arboretum and for printing, traveling and contingent expenses, four thousand dollars, or so much thereof as may be necessary.

4,000 00

### SIR WILLIAM JOHNSON MANSION.

For the Johnstown Historical Society, for removing cupola and restoring roof of mansion to its original shape three hundred fifty dollars, or so much thereof as may be necessary.

350 00

For repairing and restoring old stone fort to its original condition as near as can be, three hundred dollars, or so much thereof as may be necessary.

300 00

For building line fences between state property and lands of adjacent owners, three hundred dollars, or so much thereof as may be necessary.

300 00

For repairing drives and walks, two hundred fifty dollars, or so much thereof as may be necessary.

250 00

### PALISADES INTERSTATE PARK COMMISSION.

For the commissioners:

for salaries of the master, mate and cook of the  
"Half Moon," eighteen hundred twelve dollars.

1,812 00

## BEAR MOUNTAIN.

For improving the land at the Bear Mountain property to make it available for park purposes, five hundred dollars, or so much thereof as may be necessary. 500 00

## LAKE GEORGE BATTLEGROUND.

For the New York Historical Association, custodian Lake George battleground park, for finishing survey, laying out, improving and care of park, seven hundred fifty dollars, or so much thereof as may be necessary. 750 00

## CLINTON HOUSE.

For the Mahwenawasigh Chapter of the Daughters of the American Revolution, for care and maintenance of Clinton House, two hundred seven dollars, or so much thereof as may be necessary. 207 00

## SCHUYLER MANSION.

For compensation of keeper, six hundred dollars. 600 00  
For the president of the board of trustees, in equal semi-annual payments, April first and October first, on the warrant of the comptroller, to be expended under the direction of the board for repairs to the property and care of the building and grounds, one thousand dollars. 1,000 00

## WATKINS GLEN.

For Watkins Glen state reservation, for the salary of the superintendent, one thousand dollars, or so much thereof as may be necessary. 1,000 00  
For the salaries of two caretakers, one thousand dollars, or so much thereof as may be necessary. 1,000 00  
For the salaries of two women attendants at entrance pavilion, three hundred dollars, or so much thereof as may be necessary. 300 00  
For traveling, printing, postage and other general expenses, five hundred dollars, or so much thereof as may be necessary. 500 00

For repairs of railings, painting railings and other iron and woodwork, repair of paths, bridges and stairs, caring for trees, banks, buildings, et cetera, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For scaling rocks, three hundred dollars, or so much thereof as may be necessary.	300 00
For purchase of land adjacent to entrance, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For fire extinguishers, one hundred fifty dollars, or so much thereof as may be necessary.	150 00
For flying doors on entrance pavilion, seventy-five dollars, or so much thereof as may be necessary.	75 00
For concrete outhouses at suspension bridge, and upper end of glen, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For concrete toolhouse, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For dyke at entrance, concrete and other dyking, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For iron pipe guard railing from suspension bridge to Corning street, at Cavern cascade stairs, Sylvan gorge stairs, Central cascade stairs and bridge, and Rainbow fall stairs and bridge, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For concrete lookouts through glen, five hundred dollars, or so much thereof as may be necessary.	500 00
For path from railroad bridge east connecting with glen path at suspension bridge, eight hundred dollars, or so much thereof as may be necessary.	800 00
For fence between glen property and adjacent cemetery, one hundred fifty dollars, or so much thereof as may be necessary.	150 00
For designs, plans and oversight of construction, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For seats through glen, three hundred dollars, or so much thereof as may be necessary.	300 00

For signs, two hundred dollars, or so much thereof as may be necessary.	200 00
For survey and marking bounds of glen property, five hundred dollars, or so much thereof as may be necessary.	500 00
For draining paths and graveling, five hundred dollars, or so much thereof as may be necessary.	500 00
For flag and pole at entrance, one hundred dollars, or so much thereof as may be necessary.	100 00
For paving in front of Watkins Glen state park, two thousand dollars, or so much thereof as may be necessary.	2,000 00

## STONY POINT RESERVATION.

For care and maintenance of, and improvement to the building and grounds of the state reservation at Stony Point, for graveling and surfacing the roads and walks on said reservation and the right of way thereto, and for the construction of new roads, for grading, for water rent, for public comfort stations, for repairs to the dock and landing stage on the northerly side of said reservation, and for the expense of mounting and emplacement of revolutionary cannon donated by act of congress, three thousand dollars, or so much thereof as may be necessary.	3,000 00
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## PHILIPSE MANOR HOUSE.

For the care of Philipse Manor House and grounds, in Yonkers, as follows:	
salary of caretaker, nine hundred dollars;	900 00
services of laborers, seven hundred and fifty dollars;	750 00
light, fuel and water, six hundred dollars, or so much thereof as may be necessary;	600 00
planting and sodding, et cetera, four hundred dollars, or so much thereof as may be necessary;	400 00
contingent expenses, one hundred dollars, or so much thereof as may be necessary.	100 00

## CROWN POINT RESERVATION.

For the New York State Historical Association for the preservation and protection of the state park at Crown Point, New York, known as the Crown Point reservation, including the employment of a caretaker, one thousand dollars, or so much thereof as may be necessary.

1,000 00

## NEW YORK MONUMENTS COMMISSION.

For the New York monuments commission, for salaries of engineer and secretary and necessary employees, and for such other expenses as may be required for the work of said commission, including actual and necessary traveling and other contingent expenses incurred by said commissioners in the discharge of their duties, and for compensation for their services, as provided for by section six of chapter three hundred and seventy-one, laws of eighteen hundred and ninety-four, and chapter two hundred and sixty-nine of laws of eighteen hundred and eighty-seven, nine thousand dollars, or so much thereof as may be necessary, to be paid by the treasurer on the warrant of the comptroller on vouchers approved by the presiding officer of said commission.

9,000 00

For the New York monuments commission, for transportation to and from Andersonville, Georgia, of the surviving veterans of the New York commands in the war of the rebellion who were confined in the confederate states military prison at Andersonville, Georgia, to be designated by and under the regulations of said commission, to attend the dedication of the New York state monument erected by the state in Andersonville, Georgia, national cemetery; and for the transportation and subsistence of the governor and two members of his staff, lieutenant-governor, speaker of the assembly, members of the two finance committees of the legislature, and this board of commissioners, an aggregate not exceeding forty-four persons, and other incidental

expenses, thirty thousand dollars, or so much thereof as may be necessary, to be paid by the treasurer on the warrant of the comptroller on vouchers approved by the commission.	30,000 00
For building a foundation and pedestal for the monument of Brevet Major-General Newton Martin Curtis, three thousand dollars, or so much thereof as may be necessary, to be expended under the supervision of the New York monuments commission.	3,000 00
The commissioners appointed by and in pursuance to chapter three hundred and seventeen of the laws of eighteen hundred and ninety-five, known as the New York monuments commission, are hereby authorized and directed to procure and erect on an appropriate site to be selected by said commissioners on the battle field at Sackets harbor, Jefferson county, New York, known as Fort Tompkins park, a suitable monument to commemorate the patriotic and gallant services of the officers, soldiers and sailors of the state of New York who took part in the battles at Sackets harbor and vicinity during the war of eighteen hundred and twelve at an expense not to exceed five thousand dollars, and the said sum of five thousand dollars is hereby appropriated, the said amount to be paid by the state treasurer on the warrant of the comptroller and the presentation of proper vouchers duly certified by the presiding officer of the New York monuments commission.	5,000 00

**CONSTRUCTIVE.****OFFICE OF THE STATE ENGINEER AND SURVEYOR.**

For deficiency in salary of the chief clerk from March first to September thirtieth, nineteen hundred and eleven, three hundred and fifty dollars.	350 00
For salaries of employees from June first to September thirtieth, nineteen hundred and eleven, as follows:	
tenth grade, one employee, seven hundred fifty-eight dollars and thirty-three cents;	758 33
seventh grade, one employee, two hundred ninety-one dollars and sixty-seven cents;	291 67



sixth grade, one employee, one hundred sixteen dollars sixty-seven cents.	116 67
For the payment of work done and for continuing such work in co-operation with the United States geological survey in surveying and mapping the state of New York in the manner defined by chapter two hundred and nineteen, laws of eighteen hundred and ninety-eight, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For hydrographic work connected with the measurements of volumes of streams and flow water in the state of New York for the purpose of determining the water supply available for canals and for potable and domestic uses, and the development of water powers, one thousand five hundred dollars, or so much thereof as may be necessary. This appropriation to be used in co-operation with the United States geological survey in hydrographic work, provided an appropriation therefor is made by the United States government, otherwise this appropriation may be expended by the state engineer and surveyor without the co-operation from the United States government.	1,500 00
For salaries and actual and necessary expenses of a chief bridge designer and inspector, and the necessary assistants, draughtsmen and supplies, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the state engineer and surveyor, for traveling expenses and disbursements incurred by his department in making examinations, surveys and maps for restoring and placing monuments on the boundary lines of the state, and for expenses incurred for labor and material in procuring and placing such monuments, one thousand dollars, or so much thereof as may be necessary.	1,000 00
For expenses in examining land grant applications, and making additions to maps of land board in state engineer's office, one thousand dollars, or so much thereof as may be necessary.	1,000 00

For compiling data and publishing old records in the land bureau in the state engineer's office, two thousand dollars, or so much thereof as may be necessary. 2,000 00

## OFFICE OF THE STATE ARCHITECT.

For the state architect, seven thousand three hundred forty-three dollars and twenty-one cents, being the unexpended balance of an appropriation made by chapter four hundred and thirty-three, laws of nineteen hundred and nine, for a contingent fund, is hereby reappropriated (re. \$7,343.21), and the further sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the same purpose. 5,000 00

For deficiency in salary of one employee, ninth grade, from April first to September thirtieth, nineteen hundred and eleven, one hundred fifty dollars. 150 00

## DEPARTMENT OF PUBLIC WORKS.

For opening the channel between Lakes Wanetta and Lamoka, Schuyler county, five thousand one hundred seventy dollars, or so much thereof as may be necessary. 5,170 00

For the improvement of the Cayuga inlet in addition to one hundred twenty-five thousand dollars appropriated by chapter two hundred and sixty-seven of the laws of nineteen hundred and eight, three thousand dollars, or so much thereof as may be necessary. 3,000 00

For the maintenance and repair of the drawbridge over Minisceongo creek, Rockland county. two hundred dollars, or so much thereof as may be necessary. 200 00

For the maintenance and repair of the drawbridge known as Drake's drawbridge, spanning Wappinger creek in the village of Hamburg, Dutchess county, two hundred dollars, or so much thereof as may be necessary. 200 00

Two thousand dollars, or so much thereof as may be necessary, for repairs to the State dam on the Saint

Regis river, between the villages of Brasher Falls and Winthrop.	2,000 00
For the purpose of removing obstructions from the outlets of Round lake and Ballston lake in the county of Saratoga, three thousand dollars, or so much thereof as may be necessary.	3,000 00
For paying the cost of electricity for lighting and maintaining lighthouse at the entrance of the channel on Lake Keuka at Penn Yan, one hundred fifty dollars, or so much thereof as may be necessary.	150 00
For reimbursing the superintendent of public works for moneys expended by him in relieving flood conditions at Herkimer, New York, one hundred fifty-four dollars and sixty cents, or so much thereof as may be necessary.	154 60
For the superintendent of public works for the improvement and repairs of the Shinnecock and Peconic canal, seven thousand five hundred dollars, or so much thereof as may be necessary.	7,500 00

#### WATER SUPPLY COMMISSION.

For continuing the hydrographic investigations in co-operation with the United States geological survey, including the systematic gauging, measuring and recording of the rainfall, evaporation and stream flow throughout the state, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
For surveys, plants, estimates, examinations, investigations and reports, and expenses incidental thereto, and not otherwise provided for, as required by the state boards and commissions law, chapter fifty-six, laws of nineteen hundred and nine, in connection with public water supplies, and the improvement of rivers and water courses within the state, twenty-five thousand dollars, or so much thereof as may be necessary.	25,000 00

#### DEPARTMENT OF HIGHWAYS.

For the state highway commission, for the construction of a bridge in the Allegany Indian reservation across the	
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Allegany river in the village of Salamanca, seventy thousand dollars, or so much thereof as may be necessary.	70,000 00
For repairs to the highway between Sevay and Cranberry lake in the county of Saint Lawrence, five thousand dollars, or so much thereof as may be necessary.	5,000 00
For repairs and improvements to the state road between the villages of South Colton and Piercefield in the county of Saint Lawrence, thirty thousand dollars, or so much thereof as may be necessary.	30,000 00

## TOLL BRIDGES.

For the comptroller for the state's one-half of the expense incurred in the condemnation and acquirement of toll bridges, pursuant to and to be paid as provided by chapter one hundred and forty-six of the laws of nineteen hundred and nine, and of any act or acts amendatory thereof and supplemental thereto, fifty thousand dollars, or so much thereof as may be necessary.	50,000 00
For the Fulsom Landing Central Bridge Company, Limited, for the state's one-half of the expense of acquiring a toll bridge with interest thereon from the date of acquiring pursuant to the provisions of chapter one hundred and forty-six of the laws of nineteen hundred and nine, six thousand seven hundred twenty-one dollars and fifty-six cents, or so much thereof as may be necessary.	6,721 00

## GENERAL.

## BANK DEPARTMENT.

For deficiency in appropriation for the actual and necessary traveling expenses of the superintendent of banks in the performance of his official duties, one thousand two hundred dollars, or so much thereof as may be necessary.	1,200 00
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For a contingent fund to be used for the expenses of appraising property and for other contingent expenses in connection with the administration of the banking department, ten thousand dollars, or so much thereof as may be necessary.	10,000 00
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### INSURANCE DEPARTMENT.

For the installation of steel filing cabinets in the general office, one thousand eight hundred dollars, or so much thereof as may be necessary.	1,800 00
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For the payment of compensation and expenses of counsel employed by the superintendent of insurance in proceedings before the senate, between the thirteenth day of March and the second day of May, nineteen hundred and seven, for his removal from office, upon the recommendation of the governor to the senate, dated February twentieth, nineteen hundred and seven, ten thousand dollars, or so much thereof as may be necessary, upon the audit of the comptroller.	10,000 00
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For furniture, equipment, blanks, printing, stationery, rent and salaries and traveling expenses of employees, to carry out the provisions of the amendatory laws of nineteen hundred and eleven in reference to agents, brokers, mutual fire insurance corporations of other states, et cetera, the sum of forty thousand dollars, or so much thereof as may be necessary.	40,000 00
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### STATIONERY.

For stationery for the governor, secretary of state, comptroller, treasurer, attorney-general, state engineer and surveyor, commissioner of education, adjutant-general, clerk of the court of appeals, state board of charities, state department of health, civil service commission, superintendent of public buildings, fiscal supervisor of state charities, and department of labor, three thousand dollars, or so much thereof as may be necessary.	3,000 00
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For the unpaid balance of salary of the superintendent of Onondaga salt springs as provided by the salt spring law, five hundred dollars, or so much thereof as may be necessary.

500 00

#### ERRONEOUS PAYMENT OF TAXES.

For refund of payment of taxes erroneously paid into the state treasury, one thousand dollars, or so much thereof as may be necessary.

1,000 00

#### REDEMPTION OF LANDS.

For repayment of moneys to purchasers upon redemption of lands sold for taxes, five thousand dollars, or so much thereof as may be necessary.

5,000 00

#### COUNTY TREASURERS.

For advances to county treasurers on account of taxes on property of nonresidents, and for taxes on state, wild or forest lands which may be returned to the comptroller's office, and for adjusting accounts of state taxes with counties, fifty thousand dollars, or so much thereof as may be necessary.

50,000 00

For the convention committee at Buffalo having in charge the reception and entertainment of the national encampment of the American veterans of foreign service, to be held in Buffalo in the year nineteen hundred and eleven, for the proper and legitimate expenses attending the reception and entertainment of a suitable representation of the state of New York at the national encampment of the American veterans of foreign service to be held at Buffalo in the year nineteen hundred and eleven, and of such honorably discharged soldiers, sailors and marines who served in the Spanish-American war as may attend such encampment, one thousand dollars, or so much thereof as may be necessary, to be paid to and disbursed by the convention committee at Buffalo having in charge such reception and entertainment, under such regulations as may be prescribed by the state comptroller.

1,000 00

For Harold Elsworth, for excess of excise tax in the years nineteen hundred and six, seven, eight and nine, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said years, to be paid upon the audit of the comptroller after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Elsworth, by reason of said erroneous enumeration, six hundred sixty-two dollars and fifty cents, or so much thereof as may be necessary.

662 50

For Arthur Wipper, for excess of excise tax in the years nineteen hundred seven and eight, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said years, to be paid on the audit of the comptroller after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Wipper, by reason of said erroneous enumeration, three hundred dollars, or so much thereof as may be necessary.

300 00

For Kipp and Horton, for excess of excise tax in the years nineteen hundred eight and nine, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said years, to be paid on the audit of the comptroller, after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Kipp and Horton, by reason of said erroneous enumeration, two hundred twelve dollars and fifty cents, or so much thereof as may be necessary.

212 50

For Benjamin R. Horton, as administrator of the estate of Emmet R. Horton, deceased, for excess of excise tax in the year nineteen hundred and six, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said year, to be paid on the audit of the comptroller after due proof to the state department of excise of the error in the state

enumeration and the amount of excess of excise tax paid by the said Emmet R. Horton by reason of said erroneous enumeration, one hundred and fifty dollars, or so much thereof as may be necessary.	150 00
For Henry D. Pink, for excess of excise tax in the years nineteen hundred and six, seven, eight and nine, by reason of an error in the state enumeration in the village of Red Hook, Dutchess county, for the said years, to be paid on the audit of the comptroller, after due proof to the state department of excise of the error in the state enumeration and the amount of excess of excise tax paid by the said Pink, by reason of said erroneous enumeration, six hundred sixty-two dollars and fifty cents, or so much thereof as may be necessary.	662 50
For the payment of judgments against the state for costs duly awarded in certain actions brought pursuant to law, to be paid upon the certificate of the attorney-general, six thousand dollars, or so much thereof as may be necessary.	6,000 00
For the Davis-Colby Ore Roaster Company, for refund for taxes erroneously paid into the state treasury, two hundred sixty-seven dollars and thirty-five cents, or so much thereof as may be necessary.	267 35
For the purpose of refunding taxes erroneously paid into the treasury of the state by the Buffalo, Lake Erie and Niagara Railroad Company, under section one hundred and eighty of article nine of the general tax law, two thousand dollars, or so much thereof as may be necessary.	2,000 00
For the purpose of refunding taxes erroneously paid into the treasury of the state by the Niagara Transfer Railway Company, under section one hundred and eighty of article nine of the general tax law, five hundred dollars, or so much thereof as may be necessary.	500 00
For the purpose of refunding taxes erroneously paid into the treasury of the state by the Hornell, Bath and Lake Keuka Railway Company, under section one hundred and eighty of article nine of the general tax law, five	



hundred dollars, or so much thereof as may be necessary.

500 00

For the purpose of refunding an incorporation tax erroneously paid into the treasury of the state by John A. Barhite as receiver of the Niagara Falls and Rochester Railway Company, under section one hundred and eighty of article nine of the general tax law, the sum of six hundred twenty-five dollars, or so much thereof as may be necessary.

625 00

For the purpose of refunding tax for the year ending December thirty-first, nineteen hundred and seven, erroneously paid into the treasury of the state, under the provisions of section one hundred and eighty-seven of the general tax law by the Svea Fire and Life Insurance Company, Limited, of Gothenburg, Sweden, six hundred thirty-eight dollars and thirty-four cents, or so much thereof as may be necessary.

638 34

For the purpose of refunding taxes erroneously paid into the treasury of the state by the Rossia Insurance Company, under the provisions of section one hundred and eighty-seven of the general tax law, two thousand six hundred eighty-three dollars and eighty-eight cents, or so much thereof as may be necessary.

2,683 88

To reimburse Robert Lee Morrell, as chairman of the automobile manufacturers' committee for funds deposited with the state engineer and surveyor on or about the twentieth day of April, nineteen hundred and eight, and for which judgment was rendered in the supreme court, appellate division, first judicial department, on the eighteenth day of November, nineteen hundred and nine, five thousand dollars, or so much thereof as may be necessary.

5,000 00

### **FROM THE CANAL FUND.**

#### **DEPARTMENT OF PUBLIC WORKS.**

For the services of the agent employed by the superintendent of public works, on the request of the attorney-general, as provided in section two hundred and

seventy of the code of civil procedure, in defense of claims against the state on account of the canals, and for disbursements incurred by him, including the payment for such assistants as may be necessary in the preparation of cases, to be advanced to said agent by the comptroller in such sums as may be approved by him, upon such agent filing with the comptroller good and sufficient bond in the penalty of fifteen thousand dollars, for which advances vouchers shall be rendered, fifteen thousand dollars, or so much thereof as may be necessary, payable from the canal fund.	15,000 00
For deficiency in salary of the assistant to the deputy from April first to September thirtieth, nineteen hundred and eleven, two hundred dollars.	200 00
For the construction of a bridge from Moyer creek at West Main street in the village of Frankfort, with necessary sidewalks and approaches, ten thousand dollars, or so much thereof as may be necessary, the work to be done by contract on plans to be prepared by the state engineer and surveyor and approved by the canal board.	10,000 00
For the construction of a concrete wall along Moyer creek, in the village of Frankfort, to take the place of present wooden docking abutting the property of A. S. Seaman and the property of the Baker and Harder estates, six thousand four hundred dollars, or so much thereof as may be necessary, the work to be done under the supervision of the superintendent of public works.	6,400 00
For reimbursing the village of Waterford in payment of the state's share for assessment for brick pavement, granite curb and concrete sidewalk fronting lands of the state of New York on Third street in the said village, two hundred twenty-four dollars and seventy-two cents, or so much thereof as may be necessary.	224 72
For Edward N. Trump, for lands situated in the town of Camillus, Onondaga county, appropriated for the use of the enlarged Erie canal, pursuant to chapter three hundred and thirty-eight of the laws of eighteen	

hundred and ninety-four, the sum of six thousand five hundred dollars.

6,500 00

For the payment to John M. Shultz of Syracuse, for work done in connection with the construction of a lift bridge over the Oswego canal at North Salina street, Syracuse, over and above the amount called for by his contract but which was ordered to be done by the state engineer and surveyor and the superintendent of public works, and for which no payment has been made, one thousand one hundred sixty-three dollars and eighty-three cents, or so much thereof as may be necessary.

1,163 83

#### STATE ENGINEER AND SURVEYOR.

For surveys and maps for the use of the attorney-general in cases before the court of claims arising on account of the canals of the state, and for other expenses connected therewith, five thousand dollars, or so much thereof as may be necessary, payable from the canal fund.

5,000 00

#### FROM THE PRISON CAPITAL FUND.

For the payment of salaries of any additional foremen or employees, made necessary by any increase of the state prison industries, approved by the civil service commission, three thousand dollars, or so much thereof as may be necessary, but no part thereof shall be available for any increase of the salaries of any of the above specified employees.

3,000 00

§ 2. No manager, trustee or other officer of any state, charitable or other institution receiving moneys under this act from the state treasury for maintenance and support shall be interested in any purchase, sale or contract made by any officer for any of said institutions. In accounts for repairs or new work not done under contract provided for in this act the name of each workman, the number of days he has been employed, and the rate and amount of wages paid to him shall be given. If contracts are made for repairs or new work, or for supplies, duplicates thereof, with specifications, shall be filed with the comptroller.

§ 3. This act shall take effect immediately.

(No. 31.)

AN ACT constituting the New York city charter.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

## NEW YORK CITY CHARTER.

## CHAPTER I.

## General provisions.

- Article 1. Short title; definitions. (§§ 1-2.)
2. The city; its rights, powers, duties and obligations. (§§ 5-7.)
  3. Territorial jurisdiction; boroughs and wards. (§§ 10-12.)

## CHAPTER II.

## City debt.

- Article 1. Bonds and obligations. (§§ 20-44.)
2. Sinking fund commission; sinking funds. (§§ 50-61.)

## CHAPTER III.

## Legislative department. (§§ 70-98.)

## CHAPTER IV.

## Board of estimate.

- Article 1. Organization and powers of the board. (§§ 110-118.)
2. Appropriations. (§§ 125-134.)
  3. City map. (§§ 140-145.)
  4. Franchises. (§§ 150-159.)
  5. Public improvements. (§§ 170-177.)

## CHAPTER V.

## Department of the executive. (§§ 190-196.)

## CHAPTER VI.

## General administrative provisions. (§§ 210-231.)

**CHAPTER VII.****Officers and employees.**

- Article 1. General provisions. (§§ 240-262.)  
2. Uniformed force. (§§ 270-279.)  
3. Retirement of officers and employees upon annuities. (§§ 290-291.)

**CHAPTER VIII.****Department of finance. (§§ 300-308.)****CHAPTER IX.****Department of the city treasury.**

- Article 1. The chamberlain. (§§ 320-328.)  
2. Receiver of taxes; collector of assessments and arrears. (§§ 340-363.)  
3. Sale of tax liens. (§§ 375-399.)

**CHAPTER X.****Tax department. (§§ 410-435.)****CHAPTER XI.****Law department. (§§ 450-463.)****CHAPTER XII.****Engineering department. (§§ 470-476.)****CHAPTER XIII.****Department of education.**

- Article 1. Board of education. (§§ 480-488.)  
2. Local school boards. (§§ 500-503.)  
3. Supervising and teaching staffs. (§§ 510-521.)  
4. Teachers' retirement fund. (§§ 530-534.)  
5. General and special provisions. (§§ 540-551.)  
6. College of the City of New York. (§§ 560-567.)  
7. Hunter College of the City of New York. (§§ 575-581.)

**CHAPTER XIV.****Department of water, gas and electricity.**

- Article 1. General provisions. (§§ 590-591.)  
2. Water supply. (§§ 595-610.)  
3. Gas and electricity. (§§ 615-622.)

**CHAPTER XV.****Police department.**

- Article 1. Organization and jurisdiction of the department.  
(§§ 630-657.)
2. Pension fund. (§§ 660-667.)

**CHAPTER XVI.****Fire department.**

- Article 1. Organization and jurisdiction of the department.  
(§§ 680-693.)
2. Fires and their extinguishment. (§§ 700-704.)
3. Fire prevention. (§§ 710-720.)
4. Taxation of fire insurance agents. (§§ 725-728.)
5. Fire pension fund; life insurance fund. (§§ 730-737.)
6. Contributions to exempt or veteran volunteer firemen's associations. (§§ 740-744.)

**CHAPTER XVII.****Health department.**

- Article 1. Organization, administration, authority, duties and powers of department (§§ 750-763.)
2. Enforcement of orders and ordinances. (§§ 770-780.)
3. Pension fund. (§§ 785-790.)

**CHAPTER XVIII.****Tenement house department.**

- Article 1. Organization of department. (§§ 800-801.)
2. Powers and duties of the department. (§§ 805-816.)
3. Records and reports; miscellaneous provisions. (§§ 825-829.)

**CHAPTER XIX.****Building department. (§§ 840-853.)****CHAPTER XX.****Charities department.**

- Article 1. Organization of department; powers and duties.  
(§§ 860-871.)
2. Ambulance service. (§§ 880-882.)

**CHAPTER XXI.**

Department of correction. (§§ 890-901.)

**CHAPTER XXII.**

Department of hospitals.

Article 1. Organization of department. (§§ 910-917.)

2. Board of inebriety. (§§ 925-931.)

**CHAPTER XXIII.**

Dock department.

Article 1. General provisions. (§§ 940-949.)

2. Docks. (§§ 955-969.)

**CHAPTER XXIV.**

Ferry department. (§§ 980-989.)

**CHAPTER XXV.**

Park department. (§§ 1000-1008.)

**CHAPTER XXVI.**

Bridge department. (§§ 1010-1018.)

**CHAPTER XXVII.**

Street cleaning department.

Article 1. Organization; powers and duties of department.  
(§§ 1030-1035.)

2. Pensions. (§§ 1040-1049.)

**CHAPTER XXVIII.**

Department of licenses. (§§ 1060-1062.)

**CHAPTER XXIX.**

Department of markets, weights and measures. (§§ 1070-1074.)

**CHAPTER XXX.**

Department of architecture. (§§ 1080-1084.)

**CHAPTER XXXI.**

Art commission. (§§ 1090-1097.)

**CHAPTER XXXII.**

**Municipal civil service commission.** (§§ 1100–1102.)

**CHAPTER XXXIII.**

**Public recreation commission.** (§§ 1110–1115.)

**CHAPTER XXXIV.**

**Board of city record.** (§§ 1120–1127.)

**CHAPTER XXXV.**

**Borough officers.**

Article 1. Borough president. (§§ 1130–1143.)

2. Coroners. (§§ 1150–1159.)

**CHAPTER XXXVI.**

**Local improvements.**

Article 1. Organization of local boards. (§§ 1170–1174.)

2. Powers of local boards. (§§ 1180–1181.)

3. Initiation of local improvements. (§§ 1185–1189.)

4. Assessments for local improvements. (§§ 1195–1208.)

5. Vacating and modifying assessments. (§§ 1215–1219.)

**CHAPTER XXXVII.**

**Contracts.** (§§ 1230–1423.)

**CHAPTER XXXVIII.**

**Real property.**

Article 1. Administration of real property. (§§ 1250–1262.)

2. Acquisition of real property. (§§ 1270–1276.)

**CHAPTER XXXIX.**

**Proceedings for acquiring real property.**

Article 1. General provisions applicable to two or more classes of proceedings. (§§ 1280–1291.)

2. Proceedings to acquire real property for street purposes. (§§ 1300–1332.)



Article 3. Proceedings to acquire real property for water supply purposes. (§§ 1340-1363.)

4. Proceedings to acquire real property for general purposes. (§§ 1370-1384.)

## CHAPTER XL.

### **Actions and defenses.**

Article 1. General provisions. (§§ 1390-1397.)

2. Abatement of nuisances. (§§ 1410-1419.)

## CHAPTER XLI.

**Miscellaneous provisions.** (§§ 1430-1443.)

## CHAPTER I.

### GENERAL PROVISIONS.

Article 1. Short title; definitions. (§§ 1-2.)

2. The city; its rights, powers, duties and obligations. (§§ 5-7.)

3. Territorial jurisdiction; boroughs and wards. (§§ 10-12.)

## ARTICLE 1.

### SHORT TITLE; DEFINITIONS.

Section 1. Short title.

2. Definitions.

Section 1. Short title. This act shall be known as the "New York City Charter."

§ 2. Definitions. Whenever used in this act, unless otherwise expressly stated or unless the context or subject-matter otherwise requires:

1. "Alderman" means a member of the board of aldermen;

2. "Board of estimate" is synonymous with board of estimate and apportionment.

3. "Bureau," "board," "office," "commission," "department" or "commissioner" means the bureau, board, office, commission, department or commissioner to which the section, article or chapter in which the term is used relates;

4. "City" means the city of New York as continued by this act;

5. "City officer" or "officer of the city" includes each person elected to office by the qualified voters of the city or any division thereof; the head of each department and each deputy of a head of a department; the head of each bureau; each member of a board or commission; commissioner and deputy commissioner of accounts and statistics; each assistant corporation counsel; the city superintendent of schools, each associate and district superintendent of schools, each member of a local school board, and each of the administrative officers of the department of education; supervisor of the City Record and his deputy; the city clerk and each of his deputies; each dock master; each member of the uniformed forces of the police and fire departments; each marshal; each secretary of a department, board, body or office, and any other person in the service of the city hereafter designated an officer by ordinance or statute;

6. "Code of ordinances" means the code of ordinances of the city;

7. "County" means a county wholly included within the city;

8. "Days" means calendar days exclusive of Sundays and full legal holidays;

9. "Department" includes each bureau and division of the department;

10. "Employee" includes every person whose salary or compensation is paid out of the city treasury, other than an officer, as herein or otherwise designated by ordinance or statute;

11. "Franchise" means any right, privilege, contract, lease, consent or agreement to use, or involving the use of, the streets, or the subsurface thereof, bridges, tunnels, parks, waters, waterways, rivers, water front property or other public property within or belonging to the city for the construction, equipment, operation or maintenance in, along, upon, across, above or under the surface thereof, of bridges, tunnels, subways, railroads, street railroads, railroads constructed under the so-called rapid transit act, being chapter four, laws of eighteen hundred and ninety-one, as amended and supplemented, ferries, telegraph and telephone lines, conduits, pipes and all other means of carriage, transportation or conveyance of persons or property, including water, oil, gas, steam, air, electricity, other form of energy or other fluid element, commodity, substance or product; but franchise, as herein defined, shall not be deemed to include a revocable privilege, or a license, permit or privilege to vehicles or motor vehicles for the transportation of

persons or property plying for hire in the streets and not following a fixed route or routes;

12. "Head of a department" includes the mayor;

13. "Head of a board" means the board;

14. "Head of a body" means the body;

15. "Head of an office" means the incumbent of an elective office who is not a member of a board or body constituting the head of a department or a member of any other board or body except by virtue of his office.

16. "Local improvement" means an improvement the expense of which is assessed, in whole or in part, upon the property deemed benefited;

17. "May" whenever used to grant authority imports a grant of discretion in the exercise thereof;

18. "Park" includes parkway;

19. "Person" includes a natural person, corporation, company, association, joint-stock association, firm and copartnership;

20. "Port of New York" means the public waters embraced within, adjacent to or opposite the shores of the city and over which the state of New York has jurisdiction;

21. "Public property" includes all property, property rights and interests owned by the city as well as all "streets," "parks," "water front property," and public places and waters within or belonging to the city;

22. "Real property" includes all lands, lands under water, water front property, the water of any lake, pond or stream, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal and equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of judgment, mortgage or otherwise.

23. "Revocable privilege" means a right, privilege, consent or agreement in the nature of a franchise, but terminable at the will of the authority granting the same;

24. "Sewer" includes sewer, drainage canal, drain and sewage disposal works;

25. "Street" includes street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert, sidewalk and crosswalk, every class of public road, square and place, except marginal wharf;

26. "Street purposes" includes the purposes of a street, park, bridge or tunnel or approach to either, except marginal wharf;

27. "Tenement house" means tenement house as defined by the tenement house law;

28. "Water front property" means all the wharves, marginal wharves, piers, docks, ferry terminals, bulkheads, slips and basins, and all structures thereon, and the land under water beneath the same, and lands under water below high-water mark, and all easements appurtenant thereto, and upland and made land adjacent to such wharves, piers, docks, bulkheads, slips, basins and lands under water, jurisdiction over which is possessed by or may be assigned to the dock department or ferry department by the sinking fund commission, together with the easements, uses, reversions and appurtenances belonging to the same; excepting therefrom such upland or made-land as constitutes a street, the driveway authorized by chapter one hundred and two of the laws of eighteen hundred and ninety-three and acts amending the same, and such lands as have been or shall be acquired for public parks;

29. "Water rents" include the expense of meters, with their installation, connections, setting and maintenance, and all rents, rates and other charges for the supply of water and fines and penalties;

30. "Water supply purposes" includes the purposes of maintaining, preserving and increasing the city's water supply and preventing its contamination or pollution.

## ARTICLE 2.

### THE CITY; ITS RIGHTS, POWERS, DUTIES AND OBLIGATIONS.

#### Section 5. The city continued.

6. Rights, powers, duties and obligations; board of aldermen to exercise reserved powers.

7. Counties; restrictions upon.

Section 5. The city continued. The city of New York, as now constituted, is continued as a municipal corporation under the name of "The City of New York," and as such is the successor corporation in law and in fact of the late corporation of the mayor, aldermen and commonalty of the city of New York, and of each of the municipal and public corporations, or parts thereof, other than counties, united and consolidated to form the city of New York, and of the city as now constituted.

§ 6. Rights, powers, duties and obligations; board of aldermen to exercise reserved powers. The city has all the rights,

powers, grants, privileges, interests, claims, demands and jurisdiction of each of such municipal and public corporations or parts thereof, to which it is the successor, and is subject to all the duties, responsibilities, debts and obligations of each of such corporations and parts thereof, without diminution or enlargement, except as herein otherwise provided. For the redemption and payment of all obligations of the city and the interests thereon, the faith and credit of the city are hereby pledged.

§ 7. Counties; restrictions upon. Nothing contained in this act shall be taken to reinvest the counties of New York, Kings, Queens and Richmond, or any of them, with the power to levy any tax or make any assessment upon property within the city, or to empower any of said counties, or any officer or employee thereof, to incur any obligation or create any debt for any purpose except as provided in this act.

### ARTICLE 3.

#### TERRITORIAL JURISDICTION; BOROUGHES AND WARDS.

##### Section 10. Territorial jurisdiction.

11. Boroughs.
12. Wards.

Section 10. Territorial jurisdiction. The city has administrative power and governmental jurisdiction over all portions of the state of New York comprised within the boundaries of the counties of New York, Kings, Queens and Richmond, including the public waters comprised therein and adjacent thereto. The local administration and government of the people and property within such territory shall be in and exercised for all purposes by the city.

§ 11. Boroughs. The city is divided into five boroughs, designated Manhattan, Bronx, Brooklyn, Queens and Richmond, respectively, the boundaries whereof are as follows:

1. The borough of Manhattan consists of all that portion of the county of New York now or formerly known as Manhattan island, and also Nuttin or Governor's island, Bedloe's island, Bucking or Ellis island, the Oyster islands, Blackwell's island, Randall's island and Ward's island;

2. The borough of Bronx consists of all that portion of the county of New York lying northerly or easterly of the borough of Manhattan, between the Hudson river and the East river or

Long Island sound, including the several islands belonging to the county of New York not included in the borough of Manhattan;

3. The borough of Brooklyn consists of Kings county;
4. The borough of Queens consists of Queens county;
5. The borough of Richmond consists of Richmond county.

§ 12. Wards. The number and boundaries of the wards into which each borough is divided may be changed by ordinance, but until so changed shall continue as now constituted.

## CHAPTER II.

### CITY DEBT.

- Article 1. Bonds and obligations. (§§ 20-44.)
2. Sinking fund commission; sinking funds. (§§ 50-61.)

### ARTICLE 1.

#### BONDS AND OBLIGATIONS.

- Section 20. Statutes and ordinances continued.
21. Corporate stock.
  22. Purposes for which corporate stock may be issued.
  23. Perishable personal property and operating expenses not to be paid for from sales of corporate stock.
  24. Issue of corporate stock; how authorized;
  25. Rapid transit railroads; issue of corporate stock for.
  26. Board of aldermen; action as to corporate stock.
  27. Assessment bonds; provisions governing issue.
  28. Pavements; provision for restoring.
  29. Street improvement fund; composition.
  30. Street improvement fund; payments from.
  31. Fund for street and park openings; composition.
  32. Fund for street and park openings; payments from.
  33. Evidences of temporary indebtedness.
  34. Purposes for which special revenue bonds may be issued.
  35. Notes issued in anticipation of sale of corporate stock and assessment bonds.
  36. General fund bonds; how issued.
  37. General fund bonds issued only to sinking fund commission; redemption.

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**Section 38.** General fund bonds; deficiencies, in redemption fund, how covered.

39. Bids for obligations.

40. Interest on obligations.

41. Exemption from taxation.

42. Registration of obligations.

43. Funding of bonded debt.

44. Debt limit.

**Section 20.** Statutes and ordinances continued. All statutes and ordinances creating any debt of the municipal or public corporations united and consolidated to form the city of New York, including counties, or for the payment of such debts or respecting the same, shall remain in full force and effect, and all pledges, taxes, assessments, sinking funds and other revenue and securities for the payment of the debts of such municipal and public corporations, shall be in good faith enforced, maintained and carried out by the city.

§ 21. Corporate stock. All bonds heretofore or hereafter issued by the city, except general fund bonds, assessment bonds, and evidences of temporary indebtedness issued in anticipation of the collection of taxes or to be redeemed out of the tax levy of the year next succeeding the year of their issue, shall be known as "corporate stock of the city of New York." Corporate stock shall be in the form designated by the comptroller, signed by the comptroller and the mayor, sealed with the common seal of the city and attested by the city clerk. Corporate stock shall be issued in coupon or registered form and in denominations prescribed by the sinking fund commission. Corporate stock shall be conditioned to be paid in gold coin or in legal currency of the United States, at the option of the sinking fund commission and shall mature at a time to be fixed by such commission, which shall be not more than fifty years from the date of issue. The sinking fund commission may provide that corporate stock shall be redeemable before maturity at its face value with accrued interest, at the option of the commission after a date, which shall be stated in the certificates. When the comptroller so determines, corporate stock may be made payable in the currency of a country other than the United States, and the sales thereof shall be entered in the books of the finance department in terms of the currency of the United States, and of such foreign currency.

§ 22. Purposes for which corporate stock may be issued. Corporate stock may be issued hereafter only to provide means to pay for

1. Permanent improvements, including salaries or compensation of officers and employees determined by the board of estimate to be properly payable as a part of the expense thereof;
2. Acquisition of real property;
3. Acquisition of the rights in and to franchises;
4. Acquisition of lands and easements for rapid transit railroads, their construction, equipment and other purposes specified in chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants," as amended and supplemented;
5. Redemption at maturity and refunding of corporate stock;
6. Personal property of durable character;
7. The city's share of the cost of an improvement, the expense of which is assessed in part upon the property benefited;
8. Assessments imposed upon real property of the city for public improvements;
9. The deficiencies caused by the vacating, setting aside or reducing of an assessment for an improvement, the expense of which shall have been assessed in whole or in part upon the property benefited;
10. Uncollectible assessments for which assessment bonds shall have been issued;
11. Demolition or removal of buildings in street opening proceedings;
12. Commemorative statutes and monuments.

Corporate stock shall not be issued for the purchase of personal property which is perishable or for current use, but corporate stock authorized or required to be issued by any statute now in force, but not heretofore issued, may be hereafter issued.

§ 23. Perishable personal property and operating expenses not to be paid for from sales of corporate stock. Except as herein-after provided, the proceeds of the sale of corporate stock shall not be expended to pay operating expenses. "Operating expenses" includes expenses for maintenance, repairs, current operation and administration of the property and government of the city, and excludes expenditures for betterments, improvements and acquisition of property of a permanent nature; but expendi-



tures made or liabilities incurred by the board of water supply, the aqueduct board, and, prior to January first, nineteen hundred and ten, by the department of docks and ferries, shall not be considered operating expenses.

§ 24. Issue of corporate stock; how authorized. Corporate stock shall be issued when authorized by the board of estimate with the concurrence of the board of aldermen; provided, that the concurrence of the board of aldermen shall not be necessary to authorize an issue of corporate stock for the purposes specified in chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants," as amended and supplemented, or for the redemption at maturity or for the refunding of corporate stock.

§ 25. Rapid transit railroads; issue of corporate stock for. Upon the execution of a contract made pursuant to chapter four of the laws of eighteen hundred and ninety-one, as amended and supplemented, the public service commission may, from time to time, request the board of estimate for the authorization of such corporate stock as the commission may require, or the commission may request said board for the authorization of the full amount of corporate stock needed to pay the entire estimated expense of executing the contract. If the commission make requisition for the entire amount the comptroller shall, after the issue of such stock shall have been authorized, endorse on the contract his certificate that funds are available for the entire contract and the stock may be issued from time to time thereafter in such amounts as may be necessary to meet the requirements of the contract. No other certificate of the comptroller shall be necessary to make the contract binding on the city.

§ 26. Board of aldermen; action as to corporate stock. After a proposition to issue corporate stock requiring the concurrence of the board of aldermen shall have been approved by the board of estimate, a certified copy of the resolution of approval shall be transmitted to the board of aldermen which may, by unanimous consent, immediately consider the same or shall fix a day not more than two weeks after receipt thereof for its consideration. The board of aldermen shall, on the day so fixed, proceed with the consideration thereof, and may continue and adjourn such consideration from time to time. Within four weeks after the copy of such resolution shall have been received by the

board of aldermen, a final vote shall be taken thereon by ayes and noes. If a majority of all the members of the board of aldermen vote against such proposition it shall be deemed to be rejected by the board of aldermen. If a majority of all the members do not vote against such proposition within the four weeks above limited, at the expiration of said period it shall be deemed to have been passed by the board of aldermen. The action of the board of aldermen in passing any such proposition, whether by an affirmative vote or by a failure of a majority of all the members of the board of aldermen to vote against the same, shall be subject to the action of the mayor as in the case of an ordinance and in the event of his disapproval to the subsequent action of the board of aldermen, as in the case of his disapproval of an ordinance.

§ 27. Assessment bonds; provisions governing issue. The comptroller, when authorized by the board of estimate, may issue assessment bond to provide the means necessary to pay all expenses incurred or to be incurred on account of regulating, grading, curbing, flagging, paving or otherwise improving, or on account of opening, closing or discontinuing streets or parks, constructing sewers, or on account of the acquisition of the right of way required for sewers or of real property required for bridges or tunnels or approaches to either, wholly or partly within the city, and all other work ordered to be done by contract, the expense of which is to be paid in whole or in part by assessment upon the property deemed benefited, and the cost and expenses of proceedings therefor; and also to provide such amounts as may be necessary to meet the deficiencies caused by delay in collecting arrears of assessments or to replenish the fund. Assessment bonds shall be in the form designated by the comptroller and shall be signed by the comptroller and the mayor, sealed with the common seal of the city and attested by the city clerk, and shall mature at a time to be fixed by the sinking fund commission not more than ten years from the date of issue.

§ 28. Pavements; provision for restoring. The moneys required to pay for restoring pavements removed or disturbed by permit of the borough president shall be obtained by the sale of assessment bonds. The money collected for such purpose shall be applied only to the payment of the principal and interest of such bonds.

§ 29. Street improvement fund; composition. The fund

known as the "street improvement fund" is continued and shall consist of

1. The cash balance now in the fund;
2. The sums required by law to be paid into the fund;
3. The moneys received from the sale of assessment bonds issued to pay the cost of regulating, grading, curbing, flagging, or paving and otherwise improving streets, of constructing sewers, of the expense of plans and surveys, and of all improvements the expense of which is to be collected by assessment, other than moneys belonging to the fund for street and park openings;
4. The moneys collected on account of assessment for any such improvement;
5. The moneys received from the sale of assessment bonds issued to meet deficiencies caused by delay in collecting arrears of assessments payable into the fund;
6. The moneys not expressly pledged to a sinking fund, collected for or on account of assessments for any such improvement;
7. The moneys received from the sale of corporate stock issued to provide for the payment of the portion of the cost of any such improvement required to be paid by the city;
8. The moneys received from the sale of corporate stock issued to pay the amount which the city is required to pay by reason of the vacating, setting aside or reducing of an assessment for an improvement which, if collected, would have been paid into the fund;
9. The moneys received from the sale of corporate stock issued to pay uncollectible assessments which, if collected, would have been paid into the fund;
10. The moneys received from the sale of assessment bonds issued to replenish the fund.

§ 30. Street improvement fund; payments from. Bonds heretofore issued redeemable in the first instance out of the street improvement fund and assessment bonds hereafter issued for the purposes thereof shall be paid therefrom.

§ 31. Fund for street and park openings; composition. The fund known as the "fund for street and park openings" is continued and shall consist of:

1. The cash balance now in the fund;
2. The sums required by law to be paid into the fund;
3. The moneys received from the sale of assessment bonds issued to pay the cost and expenses of opening, closing or discon-

tinuing streets, or parks, acquiring title to real property for bridges or tunnels or approaches to either, wholly or partly within the city, of the acquisition of the right of way required for sewers, of plans and surveys, and of proceedings therefor, including fees of commissioners;

4. The moneys received from the sale of assessment bonds issued to meet deficiencies caused by delay in collecting arrears of assessments payable into the fund;

5. The moneys collected on account of assessments for any such improvement;

6. The moneys not expressly pledged to a sinking fund, collected for or account of assessments for any such improvement;

7. The moneys received from the sale of corporate stock issued to provide for the payment of the portion of the cost of any such improvement required to be paid by the city;

8. The moneys received from the sale of corporate stock issued to pay the amount which the city is required to pay by reason of the vacating, setting aside or reducing of an assessment for an improvement which, if collected, would have been paid into the fund;

9. The moneys received from the sale of corporate stock issued to pay uncollectible assessments which, if collected, would have been paid into the fund;

10. The moneys received from the sale of assessment bonds issued to replenish the fund.

§ 32. Fund for street and park openings; payments from. From the fund for street and park openings shall be paid all damages awarded and confirmed in proceedings taken to open, close or discontinue any street or park, or to acquire title to real property required for any bridge or tunnel, or approach to either, wholly or partly within the city, and all costs and expenses taxed in such proceedings. Bonds heretofore issued redeemable in the first instance out of the street improvement fund and assessment bonds hereafter issued for the purposes thereof shall be paid therefrom.

§ 33. Evidences of temporary indebtedness. The Comptroller may borrow, on the credit of the city in anticipation of its revenues, such sums, not exceeding the amount of such revenue as may be necessary to meet expenditures under the appropriations for the current year, including amounts necessary for county purposes. Such amounts shall be obtained by the issue of certifi-

cates of indebtedness or other evidences of temporary indebtedness, which shall be termed "revenue bonds," "revenue bills" or otherwise as may be approved by the comptroller and be in such form as he may designate, and be redeemed out of the proceeds of the tax levy in anticipation of the collection of which the same were issued. Revenue bonds, certificates of indebtedness or other evidences of temporary indebtedness issued for purposes other than to meet expenditures under the appropriations for the current year shall be redeemed out of the tax levy for the year next succeeding the year of their issue, and be termed "special revenue bonds," "special revenue bills" or otherwise as may be approved by the comptroller and be in such form as he may designate.

§ 34. Purposes for which special revenue bonds may be issued. The comptroller may issue special revenue bonds, certificates of indebtedness or other evidences of temporary indebtedness to be redeemed out of the tax levy for the year next succeeding the year of their issue to pay:

1. The expense necessarily incurred in condemning unsafe buildings;

2. Claims audited and adjusted and not provided for by appropriation;

3. Costs, counsel fees and expenses of an officer who is a prevailing party to an action or proceeding, when audited by the board of estimate;

4. Judgments;

5. The expenses incurred for the prevention of contagious, infectious or pestilential diseases, and for the care of persons suffering or exposed to danger therefrom in excess of the appropriation made therefor to the health department;

6. The expense of supplying water meters;

7. The amount of special appropriations made otherwise than in the budget;

8. Claims, charges and expenses which may be lawfully paid and for the payment for which other provision shall not have been made;

9. Expenses necessarily incurred in executing orders of the fire, health and tenement house departments, which are liens upon the real property affected;

10. Emergency expenditures incurred by the ferry department for repairs to or purchase of new parts or materials for ferry boats or water front property, or for the charter of private ferry

boats, when a ferry boat operated by the city shall be undergoing repairs or alterations;

11. Expenses for temporary expert or professional services for a department, board, body or office;

12. The expense of removing ice and snow when the appropriation therefor is insufficient.

Separate accounts shall be kept of the bonds issued and payments made on account of county charges, and the comptroller shall certify the amounts thereof to be raised by tax in each county.

When a judgment shall have been recovered for a county charge or liability the amount of special revenue bonds issued for its payment shall be charged against the county.

§ 35. Notes issued in anticipation of the sale of corporate stock and assessment bonds. When authorized by the board of estimate, the comptroller may issue bills or notes, termed "notes," to mature within a period not to exceed one year, in anticipation of the sale of corporate stock or assessment bonds authorized but not issued at the time of the issue of such bonds. The proceeds and the sale of such notes shall be used only for the purposes for which may be used the proceeds of the sale of corporate stock or assessment bonds in anticipation of the sale of which the notes were issued. Such notes and renewals thereof shall be payable at a fixed time, and no note shall be renewed after the sale of corporate stock or assessment bonds in anticipation of which the original note was issued. If a sale of such corporate stock or assessment bonds shall not have occurred prior to the maturity of the notes so issued, the comptroller may renew the notes. The notes and renewals thereof shall be payable from the proceeds of the sale of the corporate stock or assessment bonds in anticipation of the sale of which the original note was issued.

§ 36. General fund bonds; how issued. The city may issue bonds, to be called "general fund bonds." They shall be subject to all provisions of law relating to corporate stock, except as herein otherwise provided. The sinking fund commission, in each year until the maturity of all bonds and stock issued by the city as constituted prior to January first, eighteen hundred and ninety-eight, and redeemable from "the sinking fund of The City of New York for the redemption of the city debt." shall set apart out of the revenues and incomes of said sinking fund, except the income and accumulation thereof derived from assets held by said sinking fund

on the first day of January, nineteen hundred and three, and except also the income and accumulation thereof derived from the amount to be thus annually set apart, a sum which, with the accumulation of interest thereon, together with the assets, earnings and accumulations of said sinking fund will be sufficient to redeem at maturity all bonds and stock redeemable from said fund. At least five weeks before the annual meeting of the board of aldermen in each year for the purpose of determining the rate of taxation, the board of estimate may certify to the board of aldermen the amount, as estimated by it, of income from all sources of said sinking fund during the then calendar year, and the amount required by this section to be set apart for such calendar year out of such revenues and income for the redemption of bonds and stock to which said fund is pledged. If in any year the estimated amount of revenues or income of said fund, excepting the income and accumulation thereof derived from the assets held by said fund on the first day of January, nineteen hundred and three, and from the amounts annually set apart for the redemption of bonds and stock as by this section required, shall exceed the amount required to be set apart in such year the board of estimate may, at the time of making such certificate to the board of aldermen, determine to invest the whole or any part of such excess in general fund bonds for account of "the sinking fund of The City of New York for the redemption of the city debt;" but such investment shall not be made in any year until the amount required by this section to be set apart for such year shall have been set apart. The board shall then notify the comptroller of the amount, if any, which it shall have determined to invest in general fund bonds during the current year; the comptroller thereupon, upon receipt of the money to be invested, shall issue and deliver to the board for account of said fund general fund bonds of the face value of the money received; and shall forthwith pay into the city treasury the money received, which shall be a part of the general fund for the reduction of taxation.

§ 37. General fund bonds issued only to sinking fund commission; redemption. General fund bonds shall be issued to the sinking fund commission only, except as herein otherwise provided, for account of "the sinking fund of The City of New York for the redemption of the city debt." They shall be valid and binding obligations of the city, and be subject to all provisions of law applicable to corporate stock, not inconsistent with this section. They shall bear such rate of interest as shall be determined by

the commission. Such bonds shall be due and payable at such times as shall be determined by the commission, but not earlier than the year nineteen hundred and twenty-nine. When all bonds and stock of the former city of New York redeemable from said funds shall have been paid, all general fund bonds therein shall be canceled.

§ 38. General fund bonds; deficiencies in redemption fund, how covered. If in any year it appear to the sinking fund commission that the revenues and income of the fund applicable thereto will be insufficient to provide the sum required to be set apart in such year, the board shall include in the annual estimate for the ensuing year a sum sufficient, when added to the estimated revenues and income for that year, to make good the deficiency; and the board of aldermen shall not reduce or reject such item. If it be necessary to provide for the redemption of bonds and stock redeemable from said sinking fund, the commission may purchase from said sinking fund for account of any other sinking fund, or may sell at public sale to the highest bidder, such amount of general fund bonds then held by "the sinking fund of The City of New York for the redemption of the city debt" as may be necessary for that purpose. Whenever such general fund bonds are so purchased for other sinking funds, or are so sold, they shall be a charge upon "the sinking fund of The City of New York," and there shall be raised annually by taxation and paid into "the sinking fund of The City of New York," a sum which, with the accumulation of interest thereon, shall be sufficient to redeem said bonds at maturity; but so long as the general fund bonds are held in "the sinking fund of The City of New York for the redemption of the city debt," no such annual sum shall be raised for their redemption.

§ 39. Bids for obligations. All obligations hereafter issued, except revenue bonds, certificates of indebtedness and other evidences of temporary indebtedness, notes and such as may be purchased for investment of a sinking fund, shall be offered at public sale by the comptroller, and bids therefor shall be invited by public advertisement for at least ten days. The board of estimate may authorize the comptroller to issue notes, revenue certificates or special revenue certificates without public advertisement. No bid for less than the par value of such obligations shall be received. Every bidder shall, at the time of bid, deposit with the comptroller in cash, or by certified check drawn to the order of



the comptroller upon a trust company or a national or state bank, a sum to be fixed by the comptroller, not exceeding two and one-half per centum of the par value of the obligations bid for. Deposits other than those made by bidders to whom awards of such obligations are made shall be returned to the bidders within three days after awards shall have been made. Bids "for all or none" of the obligations offered shall be received only from persons who shall also have bid for all or some of the obligations. Bidders may be required to accept part of the obligations bid for by them at the prices specified in their bids, if such bids be not made "for all or none." All bids received shall be open by the comptroller in the presence of at least two other members of the board of estimate. Awards of obligations offered for sale shall be made by the comptroller to the highest bidder; and if the highest bidders fail to pay the amounts bid, less the amounts deposited with their bids, within five days after service upon them of written notice of such awards, the amounts of such deposits shall be forfeited to and retained by the city as liquidated damages, and shall be paid into the sinking fund of the city of New York. The comptroller may, with the approval of the board of estimate, reject any or all bids received. If a part of the obligations offered fail to be sold, the comptroller may sell the same at private sale at not less than par value, with accrued interest, if any. All sums received from the sale of such obligations in excess of the par or face value thereof shall be paid into the fund from which such obligations are redeemable.

§ 40. Interest on obligations. Except such as shall be issued for rapid transit purposes, the interest on corporate stock and on all other obligations of the city, except notes, revenue bonds, certificates of indebtedness and other evidences of temporary indebtedness, shall be at such rate and shall be payable quarterly or semi-annually as may be prescribed by the sinking fund commission and payable at such place or places as may be fixed by the comptroller at the time of issue. The rate of interest on notes, revenue bonds, certificates of indebtedness or other evidences of temporary indebtedness shall be fixed by the comptroller and the interest may be made payable at the date of maturity or at such other time as the comptroller may designate. The rate of interest on corporate stock issued for the construction and equipment of rapid transit railroads authorized by chapter four of the laws of eighteen hundred and ninety-one, as amended and supplemented, shall be fixed by the board of estimate.

§ 41. Exemption from taxation. All obligations issued or to be issued by the city shall be free and exempt from all taxation.

§ 42. Registration of obligations. Subject to such rules and regulations as the comptroller may prescribe, upon the application of the owner in person or by attorney, an unregistered obligation, other than a note, revenue bond or special revenue bond, may be surrendered for registry to the comptroller, who shall issue in place thereof a registered obligation of the same class and of the manner and form as if originally issued as a registered obligation. The obligation so surrendered with attached coupons, if any, shall be canceled by the comptroller. A registered obligation may be surrendered for discharge from registry to the comptroller who shall cancel the same and issue an unregistered obligation in place thereof. A registered obligation may be transferred upon surrender of the obligation, accompanied by a written instrument of transfer, in form approved by the comptroller, executed by the registered holder, and thereupon a new registered obligation in the same terms and for an equivalent sum, specifying the obligation in place of which it is issued, shall be issued to the transferee.

§ 43. Funding of bonded debt. The sinking fund commission may call in, pay and redeem any obligation of the city except a note, revenue bond, certificate of indebtedness or other evidence of temporary indebtedness; and for such purpose may, with the approval of the board of estimate, direct the comptroller to sell or exchange therefor obligations of the same class. Obligations so called in, paid and redeemed shall be canceled forthwith.

§ 44. Debt limit. The comptroller shall, whenever so required by the board of estimate, prepare and submit to said board a statement showing in detail indebtedness incurred by the city for any rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, with the dates of maturity of such indebtedness, the terms of any and all agreements and contracts made by or in behalf of the city with respect to such investment, the gross revenue received therefrom, the interest paid and to be paid by the city on said indebtedness, the annual instalments necessary for the amortization thereof, and the current net revenue derived from such investment. The comptroller shall also, whenever required by the board of estimate, prepare and submit to said board a statement showing in detail debt incurred by the city after the first day of January, nineteen hundred and ten, for a public improvement owned or to be owned by the city, with the dates of

maturity of such indebtedness, the terms of any and all agreements and contracts made by or in behalf of the city with respect to such improvement, the gross revenue received therefrom, the interest paid and to be paid by the city on said debt, the annual instalments necessary for the amortization thereof, the necessary allowance for repairs and maintenance which should be made and for which the city is liable and the current net revenue derived from such improvement. The comptroller and other public officers and boards shall furnish such other and further data and information in their possession with respect to such rapid transit or dock investment and such public improvement as shall be required by the board to enable it to ascertain as to such rapid transit or dock investment for which indebtedness was incurred prior to the first day of January, nineteen hundred and ten, the proportion of the interest and amortization instalments of such indebtedness which the current net revenue received by the city from such investment is sufficient to meet and, as to debt incurred after the first day of January, nineteen hundred and ten, for a public improvement, owned or to be owned by the city, whether such public improvement yield to the city current net revenue in excess of the interest on said debt and of the annual instalments necessary for its amortization, after making the necessary allowance for repairs and maintenance for which the city is liable.

The city acting by said board may present to the appellate division of the supreme court in the first judicial department a verified petition, setting forth the facts and praying for a determination of the amount of debt which may be excluded in ascertaining the power of the city to become otherwise indebted under the provisions of section ten of article eight of the constitution of the state of New York; and jurisdiction is hereby conferred upon said appellate division to make such determination. In all proceedings under this act the petition or answer of the city shall be presumptive evidence of the material facts stated therein.

After the filing of the petition the board shall cause to be published not less than once a week for two weeks in the City Record and in six daily newspapers of general circulation published in the city be designated by the said appellate division, at least one of which shall be published in the borough of Brooklyn, a notice that an application will be made to the appellate division on a day therein specified, which shall be not less than two weeks

nor more than five weeks\* from the date of the first publication of the notice, for the determination prayed for in the petition. In the notice published in the City Record as aforesaid the petition shall be printed at length.

On the return day of the notice, parties in interest, including taxpayers and owners or holders of bonds or corporate stock of the city may appear in person or by attorney and file with the appellate division a verified answer to the petition aforesaid.

If, upon the filing of an answer as aforesaid, it shall appear to the appellate division that there is a material issue of fact to be determined, the appellate division shall thereupon by order direct that on a day therein appointed one of the justices of the supreme court sitting without a jury in the county of New York shall take the evidence thereon, proceeding from day to day. The evidence so taken shall be reported forthwith to the appellate division.

On the return day of the notice aforesaid, or, if evidence be taken, then after the report thereon by the justice taking it, the appellate division shall appoint a time as early as may be at which it will hear argument and thereupon the parties shall file and serve their briefs in accordance with the directions of the appellate division. At the argument each party shall be heard.

After hearing the allegations and proofs of the parties the appellate division shall with all convenient speed make its decision, stating separately the facts found and the conclusions of law. Or, if no evidence be ordered to be taken, the appellate division may on the return day of the notice, or as soon thereafter as may be, make its decision, stating separately the facts found and the conclusions of law. Upon making the decision aforesaid the appellate division shall make a final order determining the amount of indebtedness, which may be excluded in determining the power of the city to become otherwise indebted under the provisions of section ten of article eight of the constitution of the state.

Upon the making of an order by said court determining that all the indebtedness incurred by the city for a rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, or that indebtedness incurred by said city for a public improvement after the first day of January, nineteen hundred and ten, shall be excluded in ascertaining the power of the city to become otherwise indebted, such indebtedness shall be wholly ex-

cluded in ascertaining the power of the city to become otherwise indebted; and upon the making of an order by said court determining that a part only of the indebtedness incurred by the city for any rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, shall be so excluded, the amount determined by said court in said order to be so excluded shall be excluded in ascertaining the power of the city to become otherwise indebted, provided, however, that any increase in the debt-incurring power of the city, which shall result from the exclusion of debt incurred prior to the first day of January, nineteen hundred and ten, shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes.

The determination of the appellate division herein provided for shall not be subject to collateral attack, appeal or review of any kind whatsoever, but shall be in all respects final and conclusive upon all persons and corporations whatsoever, and the proceeding herein provided for shall be the sole and exclusive method of determining the amount of indebtedness incurred by the city for rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, and the amount of debt incurred for a public improvement after the first day of January, nineteen hundred and ten, which may be excluded in ascertaining the power of the city to become indebted under the provisions of section ten of article eight of the constitution of the state.

At any time, and from time to time, after the determination aforesaid, the said appellate division must entertain an application made by the city, and in its discretion and upon such terms as shall seem to it to be advisable, and upon a verified petition containing the matters hereinbefore specified, with such other or further matters as it may require, may grant leave to a taxpayer or an owner of bonds or corporate stock of said city, to give notice of an application for a subsequent determination of the indebtedness which may be excluded as aforesaid. Upon such application, the proceedings shall be the same as herein directed in the case of an original application.

## ARTICLE 2.

### SINKING FUND COMMISSION; SINKING FUNDS.

Section 50. Sinking fund commission; general powers and duties.

51. Sinking funds continued.

52. Sinking funds enumerated.

Section 53. Sinking fund for the redemption of the city debt not to be impaired.

54. Provision for payment of certain obligations.

55. The sinking fund of the city of New York.

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Section 50. Sinking fund commission; general powers and duties. The sinking fund commission shall be composed of the mayor, comptroller, chamberlain, president of the board of aldermen and chairman of the finance committee of the board of aldermen. It shall be the successor of the commissioners of the sinking fund of the city of New York, as heretofore constituted with the powers and duties provided by this act. The assets and accounts of each sinking fund shall, except as herein otherwise provided, be kept separate and distinct, and shall be administered by the commission as an independent trust, pursuant to the provisions of law or ordinance relating thereto, to the end of preserving inviolate the rights of holders of the obligations payable therefrom.

§ 51. Sinking funds continued. All existing sinking funds are hereby continued and the funds, moneys, revenues and assets pledged and appropriated to each shall continue to be pledged and appropriated thereto as if this act had not been passed, until such time as the obligations payable therefrom shall have been canceled, discharged and redeemed. Wherever the duty shall have been imposed upon boards or officers of the several municipal or public corporations or parts thereof consolidated to form the city, or of the counties of Kings and Richmond, to raise by taxation, annually or otherwise, amounts of money for sinking fund purposes, or for the redemption of or payment of interest on bonded indebtedness, for which the city is liable, the proper officers of the city shall in like manner raise such amounts by taxation.

§ 52. Sinking funds enumerated. Each of the following sinking funds shall continue to be administered by the commission:

1. The "sinking fund of The City of New York for the redemption of the city debt;"

2. The "sinking fund of The City of New York for the payment of interest;"

3. "The sinking fund for the redemption of the city debt number two;"

4. "The sinking fund of the city of Brooklyn;"

5. "The water sinking fund of the city of Brooklyn;"

6. "The sinking fund of Long Island City for the redemption of revenue bonds;"

7. "The sinking fund of Long Island City for the redemption of water bonds;"

8. "The sinking fund of Long Island City for the redemption of fire bonds;"

9. "The sinking fund of The City of New York;"

10. "The water sinking fund of The City of New York;"

11. Existing sinking funds, if any, for the redemption of corporate stock issued for purposes of rapid transit.

The commission may establish and maintain sinking funds required by section ten of article eight of the constitution to be established and maintained to entitle the city to have indebtedness excluded in ascertaining its power to become otherwise indebted.

§ 53. Sinking fund for the redemption of the city debt not to be impaired. The commission shall not use or apply the revenues of the sinking fund of the city of New York for the redemption of the city debt, so as to impair the security of the fund for the payment of the obligations of the corporation known as the mayor, aldermen and commonalty of the city of New York; and the bonds and stocks payable from said fund shall be a preferred charge thereon until paid. All preferred bonds and stocks of the mayor, aldermen and commonalty of the city of New York shall be paid and redeemed from such sinking fund. The "consolidated stock" of the mayor, aldermen and commonalty of the city of New York, issued pursuant to the provisions of section one hundred and seventy-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, after full provision for the preferred bonds and stocks, shall be a charge upon such sinking fund, and any part of the bonded debt of said corporation due and not exchanged for or redeemed from the proceeds of said consolidated stock as provided by law may be paid from such sinking fund, provided such payment shall not in any way impair the preferred claims thereon.

§ 54. Provisions for payment of certain obligations. For the

payment of all bonds and stocks by the mayor, aldermen and commonalty of the city of New York issued after June third, eighteen hundred and seventy-eight, and prior to January first eighteen hundred and ninety-eight, there shall annually be set apart or paid over to the sinking fund commission and invested by it a sum estimated and certified by the comptroller to be sufficient, with the accumulation of interest thereon, to discharge the said bonds or stocks when payable. The annual sum so to be set apart or paid over and invested, except so far as it relates to bonds issued to provide for the supply of water, shall be set apart out of the surplus income, revenues and accumulations of the sinking fund for the redemption of the city debt after fully providing for the payment of the preferred stocks and bonds and the consolidated stock of the mayor, aldermen and commonalty of the city of New York.

§ 55. The sinking fund of the city of New York. The sinking fund of the city of New York, as the same now exists, shall continue to have for its sole purpose the redemption of corporate stock, except corporate stock issued to provide for the supply of water, issued since the first day of January, eighteen hundred and ninety-eight, for the payment of which there is no other provision than taxation. For the redemption of such corporate stock there shall be included annually in the budget and paid into such sinking fund an amount, to be estimated and certified by the comptroller, which, with the accumulations of interest thereon, will be sufficient to redeem such stock at maturity; provided, however, that there shall be deducted from such amount the sum received annually from the operation of a rapid transit railroad applicable to the amortization of the indebtedness incurred for such railroad prior to January first, nineteen hundred and ten.

§ 56. The sinking fund for payment of interest. The fund known as the "sinking fund of The City of New York for the payment of interest," accruing upon the debt of the city of New York as it existed prior to January first, eighteen hundred and ninety-eight, until the same be redeemed, shall, after providing for the interest on the bonds and stocks now payable therefrom as provided by law, be transferred to the "sinking fund of The City of New York for the redemption of the city debt."

§ 57. Payment of principal of other sinking funds into sinking fund of the city of New York. Except as provided in the preceding section, when the obligations which are payable from



a sinking fund shall have been fully discharged, the revenues pledged to such sinking fund shall thereafter be paid into the general fund for the reduction of taxation, and the commission shall cancel all obligations of the city then held by such sinking fund, except such as shall have been excluded in ascertaining the power of the city to become otherwise indebted under the provisions of section ten of article eight of the constitution, and transfer the remaining assets thereof, including the obligations of the city so accepted, to the "sinking fund of The City of New York."

§ 58. Replenishment of sinking funds. When in any year the revenues or income of a sinking fund will, in the opinion of the commission, be less than the amount required to pay the interest upon the obligations redeemable therefrom and to provide the annual instalment necessary for their amortization, the commission shall include the amount of such estimated deficit in the annual estimate for the next calendar year and such item shall be included in the budget; and in case the sum so raised be insufficient for such purpose the deficit shall in like manner be included in the estimate and budget of the ensuing year. In either case the amount so included in the budget shall be paid to the commission not later than the first day of November following.

§ 59. Sinking fund investment; cancellation of holdings. The commission may invest the assets of a sinking fund in any obligation for which the city is liable.

The commission may in its discretion cancel, from time to time, but not before maturity, an obligation for which the city is liable held by the sinking fund from which the same is redeemable. If, however, an obligation is held by a sinking fund other than the one from which it is redeemable, it shall at maturity be paid in the same manner as if held by a private creditor.

§ 60. Sinking funds; pledges to be contracts. Between the city and the holders of the obligations for which it is liable there is hereby declared to be a contract that the funds and revenues pledged to a sinking fund shall be accumulated and applied only to the purposes of such sinking fund until all obligations payable therefrom have been fully paid and redeemed.

§ 61. Alteration of rates prohibited; general fund. The city shall not alter a rate or charge affecting any item or source of revenue of a sinking fund, or of the general fund which may tend to a diminution of its receipts, except that the city may

exempt places of public worship from the payment of a fee for the construction of vaults under the street; and all the revenues of the city not specifically appropriated shall, when received into the city treasury, be credited to the general fund except proceeds of policies of insurance authorized by the sinking fund commission to be applied to repair, replace or reconstruct property injured or destroyed and covered by such insurance.

### CHAPTER III.

#### LEGISLATIVE DEPARTMENT.

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71. Composition of board.  
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76. Expulsions from office.  
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78. Aldermanic districts.  
79. Existing districts continued; redistricting.  
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81. Special meetings.  
82. Aldermanic procedure.  
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93. Aldermen; county functions.  
94. Interrogation of officers and employees.  
95. Power of investigation.  
96. Street obstructions.

Section 97. Contracts; prohibitions.

98. Commissioners of deeds.

Section 70. Power vested in board of aldermen; exceptions. The legislative power of the city, except as otherwise provided in this act, shall be vested in the board of aldermen of the city of New York. The board shall be the head of the department.

§ 71. Composition of board. The board of aldermen shall be composed of one alderman from each aldermanic district. The phrase "all the members of the board of aldermen," or its equivalent, wherever used in this act, means all aldermen elected to the board.

§ 72. Election of president of the board of aldermen and aldermen. The president of the board of aldermen shall be elected in the same manner and at the same time as the mayor, and for a term of four years. At the annual election in the year nineteen hundred and eleven, and every two years thereafter, a member of the board shall be elected in and for each aldermanic district. The board shall be the judge of the election, returns and qualifications of aldermen.

§ 73. Qualifications of president of board. A person shall not be eligible for election to the office of president of the board who is not eligible to the office of mayor.

§ 74. Vacancies; how filled. A vacancy in the office of president of the board shall be filled by appointment by the board by a majority vote of all the members thereof. The term of office of the person so appointed shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election happening not less than thirty days after such vacancy occurs. A vacancy in the office of alderman shall be filled for the unexpired term by the appointment, by a majority vote of all the remaining aldermen elected representing the borough containing the aldermanic district in which the vacancy occurs, of a person of the same political party as the member whose place has become vacant. At the meeting for such appointment the president of the borough shall preside but he shall have no vote.

§ 75. Salaries. The salary of the president of the board of aldermen shall be seven thousand five hundred dollars a year, of the vice-chairman four thousand dollars a year, of the chairman of

the finance committee five thousand dollars a year, and of each other alderman two thousand dollars a year.

§ 76. Expulsion from office. An alderman may be expelled upon charges, after a hearing by the board of aldermen, by a two-thirds vote of all the members of the board. An alderman so expelled shall cease to be a member of the board.

§ 77. Vice-chairman. The board shall appoint one of its members vice-chairman. When the president of the board be absent or acting as mayor, or while a vacancy exist in the office, the vice-chairman shall possess his powers, perform his duties and be a member of every board of which the president is a member by virtue of his office.

§ 78. Aldermanic districts. The city is divided into seventy-three aldermanic districts, of which

Thirty-three are wholly within the borough of Manhattan;

Eight are wholly within the borough of Bronx;

Twenty-four are wholly within the borough of Brooklyn;

Five are wholly within the borough of Queens;

Three are wholly within the borough of Richmond.

§ 79. Existing districts continued; redistricting. The boundaries of the several aldermanic districts shall continue as now constituted until changed by the board of aldermen by resolution. In the month of June, nineteen hundred and thirteen, and in the same month every sixth year thereafter the board may alter such boundaries. The several aldermanic districts within a borough shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, and shall consist of contiguous territory. The board may, when necessary, make or complete the description of the boundaries of an aldermanic district. Aldermanic districts shall not be affected by a change in assembly district lines.

§ 80. Meetings. The first meeting of the board of aldermen in each year shall be held on the first Monday in January, at noon. At least one stated meeting shall be held in each month, except August and September.

§ 81. Special meetings. The mayor may at any time call a special meeting of the board and he shall do so when requested in writing by fifteen aldermen. Three days before a special meeting, a notice of the time of the intended meeting and of the business proposed to be transacted, signed by the mayor, shall be published in the City Record, and the city clerk shall cause a copy of such notice to be left at or sent by mail to the last known place of residence or business address of each member of the

board at least twenty-four hours before the time when such meeting is to convene; but failure to give such notice shall not affect the validity of the meeting or its proceedings. No business shall be transacted at a special meeting other than that specified in the notice.

§ 82. Aldermanic procedure. The president of the board of aldermen, when present, shall preside at each meeting of the board. A majority of all the members of the board shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of absent members. The meetings of the board shall be public. It may determine the rules of its proceedings and punish its members. The board shall keep a journal of its proceedings in which shall be entered the ayes and noes.

§ 83. City clerk, sergeant-at-arms and subordinates. At the expiration of the term of the clerk now in office, the board shall appoint a clerk who shall be the clerk of the board and be the city clerk. In case of a prior vacancy in the office, a successor shall be elected for the balance of the unexpired term. The term of office of city clerk shall be six years, and he may be removed after a hearing on charges by a two-thirds vote of all the members of the board. The board may appoint and remove a sergeant-at-arms and such subordinates as it may determine.

§ 84. City clerk; duties as clerk of the board of aldermen. The city clerk shall keep the journal of proceedings of the board. Immediately after the adjournment of each meeting of the board he shall prepare and file in his office a brief abstract, omitting technical and formal details, of all resolutions and ordinances introduced and passed and of all reports of committees, a copy of which with full copies of all messages from the mayor and reports of departments or officers of the city shall be transmitted by him to the supervisor of the City Record for publication. He shall record all ordinances in a properly indexed book, in which each ordinance shall be attested by him, and such book shall be a public record. He shall keep open for inspection at all reasonable times the records and journals of proceedings of the board, and shall perform such other duties as may be required by the board.

§ 85. City clerk; general duties. The city clerk shall have charge of all papers and documents of the city, except such as are by law committed to the custody of other departments, boards,

lodies or officers. He shall be the keeper of the common seal of the city, and attest all leases, grants and conveyances by the city, and such other documents as may be required by ordinance or statute. Copies of all papers filed in his office, transcripts of the records and journals of proceedings of the board and copies of ordinances, certified by him under the common seal, shall be admissible in evidence as are papers and documents authenticated by the clerk of a county. He shall have charge and control of the granting, issuing, transferring, renewing and revoking licenses of auctioneers. He shall collect the fees now or hereafter authorized by statute or ordinance.

§ 86. Deputies. The city clerk shall appoint five deputies. He shall designate a deputy for each borough.

§ 87. Legislative powers of the board. The board is empowered, except as otherwise provided in this act, to make ordinances for the following purposes:

First. To guard public health, morals and safety;

Second. To prevent, abate and remove nuisances;

Third. To protect and preserve life and property;

Fourth. To preserve public peace, order and the general welfare;

Fifth. To provide for the licensing of, to license and to regulate or prohibit such businesses, callings, traffics, trades and employments as the public good may require;

Sixth. To fix the license fees to be paid by pawnbrokers and the rate of interest or other charges, if any, which may be demanded or received by them, notwithstanding the provisions of any statute fixing the same;

Seventh. To fix the license fee to be paid by auctioneers and the commissions or other charges, if any, which may be demanded or received by them;

Eighth. To provide for the efficient and orderly transaction of the business and government of the city;

Ninth. To prescribe general rules and regulations as to contracts, except as in this act otherwise provided.

The foregoing enumeration of powers shall not limit the legislative power of the board of aldermen and the board may provide for the enforcement of ordinances by penalty, fine and imprisonment and by forfeiture of license in an appropriate case, but no license shall be forfeited and canceled except for fraud in obtaining the same, or for violation of the terms and conditions thereof, to be determined as provided by ordinance.

§ 88. Ordinances. Every legislative act of the board shall be by ordinance and no ordinance shall be passed except by vote of a majority of all the members of the board. On the final passage of an ordinance the question shall be taken by ayes and noes, which shall be entered in the journal of proceedings. The style of ordinance shall be: "Be it ordained by the board of aldermen of the city of New York as follows:". No ordinance shall be passed until it shall have been printed and upon the desks of the members, in its final form, at least three days prior to its final passage, unless the mayor shall have certified to the necessity for its immediate passage.

§ 89. Mayor's action on ordinances. Every ordinance shall after its passage by the board be presented, certified by the city clerk, to the mayor. If he approve it, he shall sign it and return it to the city clerk; it shall then be deemed to have been adopted and shall take effect. If he disapprove it, he shall return it to the board with his objections, and his objections shall be entered in its journal. The board may reconsider the ordinance after five and within fifteen days after its return. If, upon such reconsideration, the ordinance receive the affirmative vote of at least two-thirds of all the members of the board, it shall be deemed to have been adopted. But one vote shall be had upon such reconsideration. The vote shall be taken by ayes and noes, which shall be entered in its journal. If an ordinance embrace more than one distinct subject, the mayor may approve the provisions relating to one or more subjects, and disapprove the others. The provisions approved by the mayor shall take effect; those disapproved by him may be reconsidered and if again passed by the affirmative vote of at least two-thirds of all the members of the board, they shall be deemed to have been adopted and shall take effect without his approval.

§ 90. Mayor's failure to act. If, within ten days after an ordinance shall have been presented to him, the mayor shall neither approve nor return it to the board with his objections, the ordinance shall be deemed to have been adopted and shall take effect. At any time prior to the return of an ordinance by the mayor, the board may recall the same and may reconsider its action thereon.

§ 91. Present ordinances continued. The ordinances now in force, so far as they are not inconsistent with this act, are confirmed and continued in full force and effect, subject to modification, amendment or repeal by the board of aldermen. But all ordinances and resolutions heretofore adopted, affecting or relating to franchises, or consenting or agreeing to the exercise of a franchise, shall not be subject to modification, amendment or repeal by the board of aldermen.

§ 92. Ordinances to be codified and published; courts to take judicial notice. The board shall cause the ordinances to be codified and published. The code of ordinances shall be revised by the board of aldermen on or before the first day of June in the year nineteen hundred and fourteen and on or before the first day of June each fifth year thereafter. The ordinances adopted during each calendar year shall be compiled and published on or before the first day of March of the succeeding year. After the date fixed for the revision of ordinances no salary or compensation shall be paid an alderman until the ordinances shall have been so revised. The code or other volume containing the ordinances of the city, published by authority of the board of aldermen, shall be prima facie evidence in all courts of justice of its authenticity. The courts of the state shall take judicial notice of all ordinances of the board of aldermen of the city of New York.

§ 93. Aldermen; county functions. The powers and duties of a board of supervisors heretofore devolved upon the board of aldermen are continued in the board except as provided in this act to be exercised by another department, board, body, commission or officer.

§ 94. Interrogation of officers and employees. The board may, by resolution, require any officer or employee, except the mayor, to appear at a stated or special meeting of the board for interrogation concerning the administration or condition of the department, bureau, board or office of which he is an officer or employee. Service of a copy of the resolution upon any such officer or a deputy, if any, at the office of such officer or upon such employee in person, not less than twenty-four hours prior to the time when his attendance is required, shall be sufficient notice.

§ 95. Power of investigation. The board may inquire whether the laws and ordinances relating to any subject or department of the city government or of a county are being faithfully



observed, and the duties of the officers and employees of the city or a county are being faithfully discharged, and whether there are any unnecessary, inefficient or unfit employees, excessive salaries or compensation paid, and generally as to all matters relating to the orderly and economical administration of business. The board, or a committee thereof, may employ counsel and take proof and testimony.

§ 96. Street obstructions. The board shall not have authority to permit the erection of booths and stands within stoop lines, except for the sale of newspapers, periodicals, fruits and soda water, and then only with the consent of the owner of the premises, nor shall the board have power to authorize the placing or continuing of any encroachment or obstruction upon a street, except for a public purpose, or for the temporary occupation thereof during the erection or repair of a building or structure upon a lot opposite the same. All ordinances authorizing encroachments or obstructions in, upon, over or under the streets shall fix a definite license fee according to the character, extent and duration thereof, and shall provide for the issue of revocable licenses therefor according to an established form and for their numbering and registration.

§ 97. Contracts; prohibitions. The board of aldermen shall not

1. Enter into, modify or alter the terms of a contract for public work or improvement, or release a contractor from a bond, undertaking, fine or penalty, or extend or authorize the extension of the time of performance of a contract;

2. Audit or allow any claim against the city.

§ 98. Commissioners of deeds. The board shall appoint such number of commissioners of deeds of the city of New York as it determines, who shall hold office for the term of two years. A commissioner of deeds, before entering upon the discharge of the duties of the office, and within thirty days after appointment, shall take and subscribe the constitutional oath of office before the city clerk or a deputy, and shall pay a fee of five dollars, whereupon the city clerk shall issue to him a certificate of appointment. The city clerk shall immediately file with the county clerk and the register, if any, of each county a certificate of the appointment and qualification of each commissioner of deeds, upon which shall appear the official signature of the commissioner. A commissioner of deeds may, within the city, administer oaths and take proofs and acknowl-

edgment of all written instruments. The city clerk shall, as provided by law, authenticate certificates of acknowledgment or proof made by a commissioner of deeds. The county clerk of a county shall authenticate certificates of acknowledgment or proof made by a commissioner of deeds. The mayor may remove a commissioner of deeds upon charges, after notice and an opportunity of being heard before him, or the secretary to the mayor when authorized by the mayor may take proof and testimony as to such charges and report the same to the mayor who may act thereon.

## CHAPTER IV.

### BOARD OF ESTIMATE.

- Article 1. Organization and powers of the board. (§§ 110–118.)
2. Appropriations. (§§ 125–134.)
  3. City map. (§§ 140–145.)
  4. Franchises. (§§ 150–159.)
  5. Public improvements. (§§ 170–177.)

## ARTICLE 1.

### ORGANIZATION OF THE BOARD.

- Section 110. Composition of board.
111. Meetings; quorum; minutes.
  112. Board acts by resolution.
  113. Resolutions relating to appropriations.
  114. Secretary of board.
  115. Standard forms of contract.
  116. Maximum prices; standards of quality.
  117. Power to take proof and testimony.
  118. Cancellation of bonds and undertakings.

Section 110. Composition of board; secretary. The board shall be composed of the mayor, the president of the board of aldermen, the comptroller, the borough presidents of the several boroughs and the chairman of the finance committee of the board of aldermen. In the determinations of the board, the mayor, president of the board of aldermen and comptroller shall be entitled to cast three votes each; the borough presidents of the boroughs of Manhattan and Brooklyn, two votes each, the borough presidents of the boroughs of Bronx, Queens and Richmond, one vote each and the chairman of the finance committee of the board of aldermen, one vote. The board shall appoint a secretary.

§ 111. Meetings; quorum; minutes. The first meeting of the board in each year shall be held on the second Monday in January, or sooner if called by the mayor, by written notice served personally upon each member or by leaving the same at his office. Subsequent meetings may be called by the mayor or as the board may by rule direct. The mayor, or, in his absence, the president of the board of aldermen, shall preside at each meeting of the board. A quorum of the board shall consist of members entitled to cast nine votes, but must include at least two members entitled to cast three votes each. The board shall cause minutes of its proceedings to be kept, which shall be recorded and be public records.

§ 112. Board acts by resolution. Every act of the board shall be by resolution adopted by a majority of the whole number of votes authorized to be cast by its members, unless otherwise provided in this act or other statute. No resolution or amendment thereof or substitute therefor shall be adopted at the meeting at which it is introduced, except by the affirmative vote of members entitled to cast at least twelve votes. Upon the adoption of a resolution the question shall be taken by ayes and noes and shall be entered in its minutes.

§ 113. Resolutions relating to appropriations. No resolution authorizing or relating to the expenditure of moneys shall be adopted except by the affirmative vote of members entitled to cast at least ten votes, and every such resolution shall, after its adoption, be presented to the mayor for his action thereon. If he approve, he shall sign it and it shall then take effect. If he disapprove, he shall return it with his objections within ten days, and the board shall enter the same at large upon its minutes. The board may within twenty days after the receipt thereof reconsider the resolution. If upon such reconsideration the resolution receive the affirmative vote of members entitled to cast at least ten votes, it shall take effect.

§ 114. Secretary of board. The secretary shall keep and record the minutes of the meetings of the board, and perform such other duties as may be prescribed in this act or by statute or the rules of the board. He shall, under the direction and as required by the board, investigate and report as to requests for appropriations, stock or bond issues, transfers of funds or adjustments of appropriations or authorizations submitted to the board, and prepare the tentative annual estimate.

§ 115. Standard forms of contract. The board of estimate, subject to the approval of the corporation counsel, may prescribe standard forms of contract to be used by each department, board, body and office of the city and each county for contracts for work and supplies.

§ 116. Maximum prices; standards of quality. The board of estimate may fix maximum prices and standards of quality and prescribe and standardize specifications for supplies to be purchased by or for any department, board, body or office of the city or a county.

§ 117. Power to take proof and testimony. The board and the secretary shall have power to take proof and testimony in relation to a matter concerning which either have a duty to perform.

§ 118. Cancellation of bonds or undertakings. The board of estimate may cancel the bond or undertaking of a city or county officer or employee.

## ARTICLE 2.

### APPROPRIATIONS.

Section 125. Departmental estimates; tentative annual estimate.

126. Annual estimate required.

127. Contents of annual estimate.

128. Composition of annual estimate.

129. Public hearing on and publication of annual estimate.

130. Action by aldermen; mayor's veto.

131. Budget; certification and publication.

132. Unexpended appropriations.

133. Transfer of appropriations.

134. Special appropriations.

Section 125. Departmental estimates; tentative annual estimate. To enable the board of estimate to make the annual estimate, the head of each department, board, body and office of the city and county, including courts, shall in such detail and upon such day as the board may direct, but not later than the first day of July, send to the secretary of the board a written estimate, to be known as a departmental estimate, of the amount of expenditure, specifying the objects thereof, required for the department, board, body, office or court for the ensuing calendar year, and a duplicate of

such estimate shall be sent at the same time to the board of aldermen. The secretary of the board of estimate shall prepare a tentative annual estimate under the supervision of a committee of five members, to be composed of the chairman of the finance committee of the board of aldermen and four other members of the board of estimate, to be appointed by the mayor, and such tentative annual estimate shall be submitted to the board of estimate on or before the first day of October.

§ 126. Annual estimate required. The board of estimate shall, between the first day of October and the tenth day of November, meet and make an estimate of the amounts required to pay the cost for the ensuing calendar year of conducting the public business of the city and the counties, which shall be called the annual estimate. Such estimate shall show, in such detail as may be practicable, the items of proposed appropriations for the purposes required to be stated in the annual estimate and the conditions under which the same may be expended.

§ 127. Contents of annual estimate. The annual estimate shall show, in such detail as the board may deem advisable, the estimated receipts of each department, board, body, office and court, including unexpended balances of former appropriations. The sources of all revenues of the city and the estimated receipts from each, including the sources and receipts of the general fund for the reduction of taxation and the several sinking funds of the city, shall be shown by separate tables.

The annual estimate shall also show in detail the condition of each pension, relief and retirement fund for which an appropriation may be required, and such other matters as may by this act or other statute be required to be stated therein.

§ 128. Composition of annual estimate. Provision shall be made in the annual estimate for:

1. The salaries and compensation of all city officers and employees, except such as are payable from proceeds of sale of corporate stock;
2. Salaries and compensation of all officers and employees of each county and all other expenses of the county properly chargeable to it as distinguished from city charges;
3. Expenses for temporary expert or professional services for a department, board, body or office;
4. The salaries and expenses of administration of the public service commission in the first district and all other commissions,

boards and bodies required by law to be paid out of the city treasury, except the board of water supply of the city of New York;

5. The necessary cost of the administration of justice in the courts in the city and the counties;

6. The cost of compiling and publishing the City Record and supplements thereof and of all advertising;

7. The charges imposed upon the city by the election law;

8. The quota of state taxes imposed upon the counties;

9. Interest upon indebtedness for which the city is liable;

10. The annual quota for the redemption of the debt of the city or a county, including instalments, payable during the ensuing calendar year;

11. Such sums as may, in addition to the accumulations of a sinking fund, be necessary to redeem any obligations payable therefrom during the next calendar year;

12. Taxes levied prior to the preceding first day of January deemed by the board to be uncollectible, so far as the same shall not have been provided for in prior tax levies or by the issue of corporate stock other than uncollectible taxes for the payment of which the issue of corporate stock shall have been authorized by statute;

13. The annual interest on general fund bonds;

14. The redemption of special revenue bonds, certificates of indebtedness or other evidences of temporary indebtedness redeemable out of the tax levy for the ensuing calendar year;

15. The cost of equipment, repairs, renewals and supplies and other operating expenses for each department, board, body and office of the city and each county and the rental of suitable buildings or offices in buildings not owned by the city;

16. The amounts required for the several pension, relief and retirement funds;

17. The maintenance and administration of Hunter College of the City of New York and The College of the City of New York;

18. The maintenance of free public libraries, including branch and traveling libraries;

19. Brooklyn Disciplinary School for Boys;

20. The maintenance of the grounds, buildings, collections, instruments and equipment of the Meteorological and Astronomical Observatory; the American Museum of Natural History; the Metropolitan Museum of Art; the Brooklyn Institute of Arts and

Sciences; the New York Botanical Garden; the New York Zoological Society; and the New York Public Library (Astor, Lenox and Tilden foundations), respectively;

21. Such sum as the board of estimate may deem proper for the due observance of Memorial day, to be expended by the memorial committees of the Grand Army of the Republic, by the United Spanish War Veterans and by the Army and Navy Union, in the various boroughs, or in such manner as the board shall deem proper;

22. Moneys to be paid, in the discretion of the board of estimate, for:

- a. The relief of poor blind persons;
- b. The education and support of the deaf and dumb and of juvenile delinquents;
- c. The care, support, maintenance and secular education of inmates of asylums, protectories, homes or refuges for dependent children;
- d. Charitable, educational, eleemosynary, correctional or reformatory institutions, wholly or partly under private control for the care, support or education of the inmates thereof;
- e. The New York Society for the Prevention of Cruelty to Children, the Brooklyn Society for the Prevention of Cruelty to Children, the Richmond County Society for the Prevention of Cruelty to Children and other societies for the prevention of cruelty to children, for the purpose of aiding the enforcement of the laws relating to or affecting children;

No money shall be paid from the city treasury, however, for any inmate of an institution who is not received and retained therein in accordance with the provisions of section fourteen of article eight of the state constitution;

23. Such other matters or purposes, not specifically provided for in this act, as may be required by statute, or as the board may determine to be necessary for the administration, during the ensuing calendar year, of the affairs of the city or of a county:

24. Emergencies for which provision is not otherwise made in this act or other statute; but no payment shall be made for such purposes unless authorized by the vote of members of the board entitled to cast at least twelve votes;

25. Sums for petty cash purposes to be paid to heads of departments, boards, bodies, or offices, to be expended by them under such conditions as to bond and audit as the board may pro-

scribe. No such payments to heads of departments, boards, bodies or offices shall exceed the sum of five hundred dollars in any one instalment, except in the case of the commissioner of police to whom payments for contingent expenses may be made in instalments not exceeding ten thousand dollars each. In no case shall a second or further instalment be paid until the expenditures made from the preceding instalment shall have been fully accounted for and the disbursement thereof approved by the comptroller.

§ 129. Public hearing on publication of annual estimate. Before finally determining upon the annual estimate the board of estimate shall fix a time or times for hearing taxpayers in regard thereto and simultaneously with its transmission to the board of aldermen a copy thereof shall be sent to the City Record and be published therein, together with a notice of the time or times fixed for such hearing.

§ 130. Action by aldermen; mayor's veto. Within five days after the annual estimate shall have been completed by the board of estimate it shall be transmitted to the board of aldermen, and the mayor shall call a meeting of the board of aldermen for action thereon. The consideration of the annual estimate by the board of aldermen shall continue from day to day for a period not exceeding twenty days. Within twenty days after its transmission the board of aldermen shall finally adopt the annual estimate as transmitted, or amend the same, and finally adopt it as amended, and if said estimate, or estimate as amended, shall not have been finally adopted within said period, at the expiration of said period it shall be deemed to have been finally adopted as transmitted by the board of estimate. The board of aldermen shall not have power to reduce or reject any item of the annual estimate, except for salaries or compensation of officers or employees, supplies or improvements. The action the board of aldermen in reducing or rejecting an item of the annual estimate shall be subject to the veto of the mayor, and unless his veto be overridden by a two-thirds vote of all of the members of the board of aldermen, the item as fixed by the board of estimate shall stand. The board of aldermen shall not increase the amount of an item or vary the terms or conditions thereof, or insert a new item, nor shall it reject or reduce the amount of an item fixed by statute.

§ 131. Budget; certification and publication. The annual estimate as finally adopted shall be the budget for the ensuing calen-



lar year, and the several amounts therein specified for expenditures shall be and become appropriated in the amounts and for the several purposes as therein specified for such year. Prior to the twenty-fifth day of December, the budget shall be certified by the mayor, comptroller and city clerk. On or before the thirty-first day of December the budget, as so certified, shall be filed in the office of the comptroller and a copy thereof published in the City Record.

§ 132. Unexpended appropriations. Balances of appropriations remaining unexpended at the expiration of sixty days after the close of the calendar year for which they shall have been made shall be paid into the general fund for the reduction of taxation.

§ 133. Transfer of appropriations. The board may transfer to other purpose the portion of an appropriation found by the head of a department, board, body, office or a court to be in excess of the amount required therefor. But the board shall not authorize funds appropriated for expenditure in one year to funds to be expended in a subsequent year.

§ 134. Special appropriations. Upon the recommendation of a head of a department, board, body or office, the board of estimate, with the concurrence of the board of aldermen, subject to the qualified veto of the mayor as in the adoption of the annual estimate, make appropriation for any purpose for which an appropriation may be made in the budget.

### ARTICLE 3.

#### CITY MAP.

Section 140. Completed portions confirmed; established grades.

141. Map to be completed.

142. Changing city map; jurisdiction and procedure.

143. Additions to city map.

144. Where city map and copies shall be filed.

145. Platting of land and dedication of streets.

Section 140. Completed portions confirmed; established grades. The map of the territory lying within the city, as heretofore laid out, completed, adopted and established by lawful authority and showing the parks, streets, bridges and tunnels and the approaches thereto and other public places within the city, and the maps and profiles included in or accompanying the same, showing the grades of such streets as adopted and established,

shall constitute the map of the city to the extent and so far as they delineate the territory lying within the city, and as such is hereby adopted, established and confirmed and is final and conclusive in respect of the location, width and grades of the streets shown thereon as laid out, adopted and established; provided, that whenever any street in the city shall have been used as such for upward of twenty years without having the grade thereof established by law, the level or surface of such street as so used shall be deemed to be and to have been the legally established grade thereof.

§ 141. Map to be completed. The borough president of each borough shall prepare and submit to the board of estimate a map of that part of the territory embraced within the borough, of which a map or plan has not heretofore been finally established and adopted, locating and laying out all parks, streets, bridges, tunnels and approaches to bridges and tunnels, and indicating the width and grades of all streets so located and laid out. The city engineer or other expert shall prepare and furnish, for primary stations, the latitude and longitude determined in conformity with the method used by the United States coast and geodetic survey; for secondary stations, the rectangular spherical co-ordinates; and for all stations, rectangular co-ordinates referred to a given fixed central meridian, or assumed meridian. Such co-ordinates shall be official and binding upon all officers making any map or plan relating to any borough or part thereof.

§ 142. Changing city map; jurisdiction and procedure. The board of estimate may, when it deem it for the public interest, change the city map so as to lay out new streets, parks, bridges, tunnels and approaches to bridges and tunnels, and to widen, straighten, extend, alter and close existing streets, and close streams, ponds and waters, shown upon such map, by publishing notice of its proposed action for three days, in the City Record, and giving an opportunity for all persons interested in such change to be heard, at a time and place to be specified in such notice, such time to be not less than ten days after the first publication of such notice. After the due publication of such notice and after hearing protests and objections, if any, against the proposed change, if the board favor such change, notwithstanding such protests and objections, and such change receive the approval of the mayor, it shall be deemed to have been made; provided, however, that local boards, at a joint meeting of all the boards com-

prised within the borough for which said map shall have been adopted, within three months after the opening of a street may alter the grade of such street, and of intersecting streets so far as it may be necessary to conform the same to the grade of the street opened. No street, stream, pond or water shall be closed in whole or in part unless the board shall decide that the same, or so much thereof as is to be closed, is no longer needed for public purposes.

§ 143. Additions to city map. When the borough president shall have completed a map of a part of the territory of the borough, he shall report the same together with the surveys, maps and profiles, showing the parks, streets, bridges, tunnels and approaches to bridges and tunnels located and laid out by him, and the grade thereof, to the board of estimate for its approval, subject, nevertheless, to such corrections or modifications as the board may determine; and such maps and profiles, as finally adopted by it, shall be certified by the mayor and the secretary of the board. Such maps and profiles, when so adopted, shall become a part of the city map and shall be final with respect to the location, width and grades of the streets shown thereon, and subject to change or modification only as provided in this article.

§ 144. Where city map and copies shall be filed. The city map shall be filed with the city engineer. One copy thereof shall be filed in the office of the recording officer of the county, one copy in the office of the borough president, and one copy in the office of the corporation counsel.

§ 145. Platting of lands and dedication of streets. A map of the subdivision of lands or the platting thereof into streets shall not be filed or become effectual and binding as a dedication thereof until approved by the board of estimate. Upon such approval the title of the parties filing the map to the streets designated on the map or plat shall immediately vest in fee in the city in trust for the designated public uses. Such map shall be filed in the office of the borough president of the borough in which the lands are situated, and a copy thereof with the approval of the board indorsed thereon shall be filed and recorded in the office of the recording officer of the county in which the land is situated and indexed therein as a deed.

## ARTICLE 4.

## FRANCHISES.

Section 150. Franchises; consent of city to.

151. Proposed franchises to be published; public hearing to be had; value of franchise to be determined.

152. Vote required to authorize franchise; procedure.

153. Duration of franchises; tunnel railroads.

154. Modification, amendment or repeal of franchises.

155. Reversion of franchise to city; conditions.

156. Revocable privileges.

157. Franchise book.

158. Application of article.

159. Section of railroad law not applicable to grants under this article.

Section 150. Franchises; consent of city to. No franchise shall be granted, modified, amended, enlarged or extended, territorially or otherwise, except with the consent of the board of estimate and the mayor as provided in this chapter, and such board and the mayor shall have the exclusive power, in behalf of the city, to consent to or contract for the use by others of public property for any purpose for which a franchise may be granted. Franchises shall be granted only to persons, corporations organized under the laws of the state for the purpose for which the franchise may be granted, or to the state or the United States for public purposes upon the application of the head of a department or other duly authorized officer thereof. The board of estimate shall have control of all the streets, bridges, tunnels, parks, waters, waterways, water front property and all other public lands and waters within or belonging to the city, except as in this act otherwise provided.

§ 151. Proposed franchises to be published; public hearings to be had; value of franchise to be determined. Before a consent to the grant of a franchise shall be given by the board, a date shall be fixed for a public hearing upon petition therefor. No such hearing shall be held until notice thereof, and the petition shall have been published at least twice in the City Record, and at least twice, at the expense of the petitioner, in two newspapers published in the city, to be designated by the mayor. The board shall make inquiry as to the money value of

the franchise proposed to be granted and the adequacy of the compensation to be paid therefor, and shall embody the result of such inquiry in a proposed contract containing all of the terms and conditions and including provisions in detail as to rates, fares and charges. Such proposed contract, together with the form of the proposed resolution consenting to the same in behalf of the city, shall be entered upon the minutes of the board, but before authorizing any such contract or adopting any such resolution, a date shall be fixed for a public hearing thereon. No such hearing shall be held until notice thereof and the proposed contract and proposed resolution of consent thereto shall have been published at least twice prior thereto in the City Record, nor until such notice and a synopsis of the terms of the proposed contract shall have been published at least twice, at the expense of the proposed grantee, in the two newspapers in which the petition and notice of hearing thereon shall have been published.

§ 152. Vote required to authorize franchise; procedure. No franchise shall be approved, authorized or granted except by the concurrence of members of the board entitled to cast twelve votes in the aggregate. The vote upon any such proposition shall be taken by the ayes and noes, which shall be recorded in the minutes of the board. The separate and additional approval of the mayor shall be necessary to the validity of every franchise. Thirty days at least shall intervene between the introduction and final passage of a resolution affirming, authorizing or granting a franchise. Within five days after the taking effect of a resolution granting a franchise such resolution and franchise shall be duly attested by the secretary of the board and transmitted to the comptroller, the corporation counsel, the city clerk and, if it relate to a matter within the jurisdiction of the public service commission of the first district, to the commission, to be preserved among the records of their respective offices. All such certified copies shall be public records.

§ 153. Duration of franchises; tunnel railroads. No franchise shall be granted under this act for a period longer than twenty-five years, except as herein provided, but the grant of a franchise may provide for giving the grantee the right to renewals, not exceeding in the aggregate twenty-five years, upon fair revaluation of renewal. This section shall not apply to franchises granted to tunnel railroad corporations nor to grants made pursuant to the rapid transit act, chapter four of the laws of eighteen hun-

dred and ninety-one, as amended and supplemented. The board of estimate with the approval of the mayor may grant a franchise to a railroad corporation for the construction and operation of a tunnel railroad for a period not exceeding fifty years, and such grant may, at the option of the city, provide for giving to the grantee the right, on fair revaluation, to renewals not exceeding in the aggregate twenty-five years; provided, that the grant of a franchise to construct a tunnel for railroad purposes or to a renewal of such franchise shall only be given by the board with the approval of the mayor after an agreement shall have been made by such tunnel railroad corporation to pay to the city a reasonable percentage of the gross receipts derived from the use for any and all purposes of the tunnel.

§ 154. Modification, amendment or repeal of franchise. An ordinance affecting or relating to a franchise shall be subject to modification, amendment or repeal by the board of estimate with the approval of the mayor.

§ 155. Reversion of franchise to city; conditions. Upon the termination of a franchise all the rights of the grantee thereunder shall cease and determine, and all property maintained or constructed pursuant to the franchise in, on, over or under the streets, bridges, waters, waterways, water front property or any public property within or belonging to the city shall become the property of the city without compensation. Every grant of a franchise may provide that upon the termination of the franchise, the plant of the grantee, with its appurtenances, or any part thereof, outside of the public streets and other public places above mentioned, shall thereupon become the property of the city without compensation, or that there shall be a fair valuation of the plant and its appurtenances, which shall become the property of the city upon payment to the grantee of the amount of such valuation. If the grant of a franchise provide that the city pay for the plant and appurtenances, or any part thereof, such payment shall be at a fair appraisal of the same, excluding value which may be derived from its use in connection with the franchise. Upon coming into possession of any such property the city may either take and operate it, or any part thereof, on its own account, or lease the same, or any part thereof, or grant a further franchise in connection therewith for a period not exceeding twenty years. Every grant of a franchise shall make provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public

service at reasonable rates and the maintenance of the property in good condition throughout the term. Every grant of a franchise shall specify the mode of determining the value for which provision is therein made.

§ 156. Revocable privileges. A revocable privilege may be granted by the board, subject to the approval of the mayor, and the grant shall require compensation for the privilege, and the filing of an agreement in which the grantee assumes all responsibility for damage caused by the erection, building, maintenance and operation of the pipes, conduits, tunnels, connecting bridges or other structures which are the subject of the grant, and consent to such other conditions and assurances as may be required and to all of the provisions of this section. If the applicant for a revocable privilege be the United States or the state or a charitable or philanthropic institution, or an institution supported wholly or in part by public funds, the board, with the consent of the mayor, may grant such consent without requiring compensation. A revocable privilege may be granted for a period not exceeding ten years but may be revoked before the expiration thereof by the board with the consent of the mayor. At the expiration or revocation of any such privilege, the right of the grantee to maintain the pipes, conduits, tunnels, connecting bridges or other structures authorized under such grant, shall cease, and within thirty days thereafter the same shall be removed by the grantee; and all public property disturbed thereby shall be restored in good and proper condition by the grantee at his expense; or, in case of failure by him so to do, the pipes, conduits, tunnels, connecting bridges or other structures may be removed by the city, and the expense thereof charged against the grantee, and if he fail within ten days after notice to pay the same, such expense shall be certified by the board and filed in the office of the county clerk of any county and be entered and docketed as a judgment and with like effect. A revocable privilege may be extended at the option of the board, with the consent of the mayor, for a further period or periods of not more than ten years each, upon such terms and conditions as may be prescribed, including the provisions of this section.

§ 157. Franchise book. In addition to its other records, the board shall cause to be kept a separate and public record to be known as the "Franchise Book" in which shall be transcribed verbatim and without delay every grant of a franchise, including a revocable privilege, hereafter granted by the board or by the

public service commission of the first district, together with copies of all formalities of execution or verification thereof.

§ 158. Application of article. The provisions of this article shall apply to the renewal or extension of a franchise to the same grantee, or to his successor in interest, but shall not apply to applications for grants of franchises or revocable privileges to the United States or the state, but the same may be consented to by the unanimous vote of the board with the consent of the mayor. The provisions of this article shall not apply to ferries.

§ 159. Section of railroad law not applicable to grants under this article. Section one hundred and seventy-three of the railroad law shall not apply to grants made under and pursuant to this article.

## ARTICLE 5.

### PUBLIC IMPROVEMENTS.

Section 170. Jurisdiction of board of estimate.

171. Recommendations as to improvements by city engineer.

172. Necessities of departments to be reported.

173. Drainage and sewer system to be completed.

174. Raising grade for drainage.

175. Drainage maps to be filed.

176. Overflow sewers; outlets to be dredged.

177. Apportionment of cost of local improvements.

Section 170. Jurisdiction of board of estimate. The board may initiate a public improvement where no part of the expense is to be assessed upon the property deemed benefited, or where the whole expense of the improvement is to be paid by one or more entire boroughs; or where the improvement consists of the opening, closing, widening or extending of streets or the construction of bridges and tunnels. The board may approve or disapprove a resolution of a local board authorizing the institution of a proceeding for an improvement the expense of which is to be assessed in whole or in part upon the property deemed benefited.

§ 171. Recommendations as to improvements by city engineer. The city engineer shall submit to the board, at its first meeting in the month of September in each year, and from time to time as the board may direct, recommendations for the authorization of public improvements which it may initiate, with a detailed estimate of the cost thereof, to be initiated during the next succeeding



calendar year, including the acquisition of real property therefor. All such recommendations shall be published in the City Record not later than the first day of October following the date of their submission.

§ 172. Necessities of departments to be reported. For the purpose of enabling the city engineer to prepare such recommendations, the head of each department, board, body or office shall, not later than the first day of July in each year, or from time to time as required, submit to the city engineer a full description of proposed improvements to be executed for the use and under the direction of such head of department, board, body or office, with an adequate explanation thereof in such detail and form as the board of estimate may prescribe.

§ 173. Drainage and sewer system to be completed. The borough president of each borough shall, subject to the approval of the board of estimate, prepare and complete a plan for the proper sewerage and drainage of the borough. The borough president of each borough shall, subject to like approval, lay out the borough into as many sewer districts as he may deem necessary and delineate, on suitable maps, the location, size and grade of existing sewers and proposed alterations and improvements thereto and each sewer proposed for each of said districts, and shall also delineate on such maps the contemplated depth below the surface of such sewers and also below the established grades, and shall show on such maps a complete plan of the existing and proposed sewers.

§ 174. Raising grade for drainage. When a borough president determine it necessary to raise the grade of a street for the proper sewerage of the sewer district in which such street or a part thereof is situated, he shall prepare a map showing the plan of the proposed change of grade, and shall present the same to the board of estimate for approval, and the board may change the grade of such street or part thereof, so far as necessary for the proper drainage thereof in accordance with said plan.

§ 175. Drainage maps to be filed. Upon the completion of the map for the drainage of a sewer district and its approval by the board of estimate, such map shall be the permanent plan for the sewers of such district unless subsequently modified by the board. The original of such complete map and of the maps showing modifications thereof shall be certified by the mayor and the secretary of the board and shall be filed in the office of the city

engineer and copies thereof shall be filed as follows: One copy in the office of the recording officer of the county in which the territory shown upon the map is located, one copy in the office of the corporation counsel, and one copy in the office of the borough president. It shall not be lawful hereafter to construct a sewer unless such sewer be in accordance with the general plan, approved or modified and approved as aforesaid.

§ 176. Overflow sewers; outlets to be dredged. An overflow sewer deemed necessary for the relief of a main sewer may be discharged into any canal, inlet or other navigable water within or adjacent to the city; provided, that any such canal, inlet or navigable water used as an outlet for drainage shall be kept free of obstructions from sewage.

§ 177. Apportionment of cost of local improvements. The board of estimate shall determine what portion, if any, of the expense of a local improvement be paid by the city or a borough, provided that if the expense to be borne by the city exceed the sum of five hundred thousand dollars the approval of the board of aldermen shall be required. Such determination shall be final. If any part of the local improvement is to be paid for by assessment upon the property deemed benefited, the secretary of the board of estimate shall file with the borough president of the borough in which the proposed local improvement is to be located, a certificate of the determination of the board of estimate, and of the approval of the board of aldermen, if required.

## CHAPTER V.

### DEPARTMENT OF THE EXECUTIVE.

**Section 190.** The mayor.

191. Absence or disability of mayor.

192. Vacancy in the office of mayor; how filled.

193. Mayor's power of appointment and removal.

194. Subordinates in mayor's office.

195. Commissioner of accounts and statistics; duties and powers.

196. Marshals.

**Section 190.** The mayor. The mayor shall be the chief executive officer of the city. A mayor shall be elected at the general election in the year nineteen hundred and thirteen and every four

years thereafter, and hold office for the term of four years commencing on the first day of January after his election. The salary of mayor shall be twenty-five thousand dollars a year.

§ 191. Absence or disability of mayor. The mayor may designate by writing, filed in his office and the office of the city clerk, a member of the board of estimate or an officer who is the head of a department to act as mayor during his disability or absence from the city, for a period not exceeding sixty days, who shall, during such period, possess all his rights and powers except the power of appointment to and removal from office. Any such officer shall serve in such capacity without additional compensation. He may revoke such designation. If no such designation be made or upon the expiration of a designation so made, the president of the board of aldermen shall act as mayor and possess all his rights and powers during disability or absence, except as in this section otherwise provided. The president of the board of aldermen when acting as mayor, in consequence of the mayor's disability or absence from the city, shall not exercise any power of appointment to or removal from office unless the disability or absence continue more than thirty days, or approve or disapprove an ordinance or resolution of the board of estimate until the disability or absence of the mayor have continued for more than nine days.

§ 192. Vacancy in the office of mayor; how filled. A vacancy in the office of mayor shall be filled for the remainder of the term of office, if any, at the annual election happening not less than thirty days after such vacancy occur, and the president of the board of aldermen shall act as mayor until the first of January succeeding such election. While the offices of both the mayor and the president of the board of aldermen be vacant, or while no other officer be authorized to act as mayor, the chairman of the finance committee of the board of aldermen shall act as mayor and possess all his rights and powers, subject to all the limitations provided in case the president of the board of aldermen act as mayor.

§ 193. Mayor's power of appointment and removal. The mayor shall appoint a secretary, the heads of departments, the commissioner or two commissioners of accounts and statistics, marshals and the members of every board, body and commission for whose appointment or election express provision is not otherwise made in this act or other statute. The mayor may, when in his judgment the public interests require, except as otherwise provided in this act, remove from office any public officer holding

office by appointment from a mayor, except judicial officers. Commissioners of election shall be removed only as prescribed by the election law.

§ 194. Subordinates in mayor's office. The mayor may appoint and prescribe the duties of the secretaries, clerks and subordinates in his office. He may authorize and designate in writing for a period, not extending beyond his term of office, one of his secretaries or chief clerk to sign his name to corporate stock, assessment bonds or any paper or document to which his signature is required, except a certificate of appointment to or removal from office, a designation of a person to act as mayor, the approval or disapproval of an ordinance or a resolution of the board of estimate. The person so designated shall sign his own name under that of the mayor. Such a designation shall be in duplicate and filed in the offices of the mayor and comptroller and may, in like manner, be revoked by the mayor.

§ 195. Commissioner of accounts and statistics; duties and powers. The commissioner or commissioners of accounts and statistics shall appoint a deputy. The commissioner or commissioners shall:

1. When directed by the mayor investigate the administration and condition of any department, board, body or office of the city, or of a county. The commissioner or commissioners shall examine the accounts of the chamberlain and make such special examinations of the accounts and methods of the departments, boards, bodies and offices of the city and of the counties as the mayor may direct, and shall report in writing to the mayor the results thereof. For the purpose of ascertaining facts in connection with these examinations the commissioner or commissioners shall have power to take proof and testimony.

2. Be the custodian of all statistical records of the city and the counties and have control of the compilation and publication of statistics; provided, that the board of City Record shall determine when such statistics shall be published and the form and detail of their publication, subject to the provisions of this act or other statute, or the code of ordinances. Except as otherwise provided in this act, or other statute, the commissioner or commissioners shall be the custodian of and shall conveniently arrange for public examination all records of municipalities or corporations heretofore consolidated to form the city of New York and of all boards, bodies or offices heretofore controlling or directing work therefor

and for the city but which have been or may be abolished; provided, that no book or record shall be removed from the custody of a department, board, body or office of the city or a county while the use of such book or record is there required. All books, papers and records in the custody of the commissioner or commissioners and all reports made to the mayor, except reports of investigations of criminal charges and reports of investigations in aid of the defense of actions or proceedings in which the city is interested, before such charges or actions have been finally determined by the courts, shall be public records.

§ 196. Marshals. The mayor shall appoint and assign to duty such number of marshals in and for each borough as shall be fixed by the board of estimate. The marshals now in office shall continue in office, unless sooner removed, until the expiration of the terms for which they were severally appointed.

## CHAPTER VI.

### GENERAL ADMINISTRATIVE PROVISIONS.

#### Section 210. General application.

- 211. Enumeration of departments.
- 212. Powers and obligations continued.
- 213. Central and branch offices.
- 214. Boards and bodies; quorum; powers.
- 215. Bureaus and offices continued.
- 216. Subordinates; rules and regulations.
- 217. Official seals.
- 218. Badges and uniforms.
- 219. Expenses of departments; prohibitions.
- 220. Records to be kept and abstracts published.
- 221. Copies of records to be furnished.
- 222. Departmental proceedings; presumption of regularity.
- 223. Official records as evidence.
- 224. Reports and statistics.
- 225. Taking of proof and testimony.
- 226. Personal property; disposition of.
- 227. Useless records.
- 228. Determination of controversies.
- 229. Transfer of appropriations, property and records.
- 230. Temporary services.
- 231. Deputy or subordinate acting for principal.

Section 210. General application. Unless the context or subject-matter otherwise require, the provisions of this chapter shall apply to every department, board, body and office of the city and the counties, and to all city and county officers and their subordinates.

§ 211. Enumeration of administrative departments. There shall be the following administrative departments in the city:

1. Finance department.
2. City treasury.
3. Tax department.
4. Law department.
5. Engineering department.
6. Department of education.
7. Department of water, gas and electricity.
8. Police department.
9. Fire department.
10. Health department.
11. Tenement-house department.
12. Building department.
13. Charities department.
14. Department of correction.
15. Department of hospitals.
16. Dock department.
17. Ferry department.
18. Park department.
19. Bridge department.
20. Street cleaning department.
21. Department of licenses.
22. Department of markets, weights and measures.
23. Department of city architecture.
24. Art commission.
25. Municipal civil service commission.
26. Recreation commission.
27. Board of city record.
28. Borough officers.

§ 212. Powers and obligations continued. All the authority, jurisdiction, rights, powers, duties and obligations now vested in or imposed upon any department, board, body, bureau, office, officer or employee are continued, except as in this act otherwise specifically provided. The power conferred and the duties imposed upon a department, board, body, office, officer or employee under any statute or ordinance now in force shall, if the depart-

ment, board, body, office, position or employment be abolished by this act, be hereafter exercised and discharged by the department, board, body, office, officer or employee exercising corresponding powers and duties under the provisions of this act. All unexecuted or existing contracts authorized or made by a department, board, body, office, bureau, officer or employee which or whose office, position or employment is abolished or whose functions are transferred by this act and all bonds or undertakings in favor of the city or a county enforceable by a department, board, body, office, officer or employee which or whose office, position or employment is abolished or whose functions are transferred by this act shall be executed and carried out by the department, board, body, bureau, office, officer or employee to whom such functions are transferred or upon whom corresponding functions are conferred by this act; and nothing herein contained shall affect any existing obligation or contract.

§ 213. Central and branch offices. The central office of each department shall be in the borough of Manhattan. The head of an administrative department may establish a branch office of the department in any borough and there shall be a branch officer in the borough of Brooklyn of each of the departments of city treasury, law, police, fire, tenement-house, health, water, gas and electricity and street cleaning.

§ 214. Boards and bodies; quorum; powers. A majority of the members of a board or body shall constitute a quorum. Each board or body may, except as herein otherwise provided, elect one of its members president, and another treasurer, and may appoint a secretary.

§ 215. Bureaus and offices continued. All bureaus and divisions in a department, board, body or office of the city or a county, now existing, and their present names, jurisdictions, functions, officers and employees shall continue, except as provided herein, until changed. The head of a department, board, body or office may create, abolish or consolidate bureaus, divisions or offices therein, or change the name, jurisdiction, function, officers or employees therein, except bureaus and offices created by statute.

§ 216. Subordinates; rules and regulations. The head of each department shall have authority to prescribe the duties of subordinates, and to make rules and regulations for the government, administration and discipline, and the conduct of business, not inconsistent with law or ordinance. All rules and regulations

now in force are continued until altered or amended. A copy of the rules and regulations of a department, board, body or office certified by the head of such department, board, body or office, or the secretary or chief clerk thereof, may be read in evidence.

§ 217. Official seals. Whenever authorized by the board of estimate a department, board, body or office may have an official seal, which shall be in form and design of the common seal of the city with the name of the department, board, body or office inserted therein, and the courts shall take judicial cognizance thereof.

§ 218. Badges and uniforms. The head of a city or county department, board, body or office may make rules requiring subordinates to wear badges, or other insignia, or uniforms, and prescribing their form, style and material and regulating the display and wearing thereof; provided, however, that no rule shall prescribe where or of whom such badges, insignia or uniforms shall be purchased or the price to be paid therefor.

§ 219. Expenses of departments; prohibitions. No expense shall be incurred by a city or county department, board, body, office, officer or employee, and no contract shall be made unless an appropriation shall previously have been made sufficient to meet the expense thereof and there be an unexpended balance of such appropriation sufficient to meet such expense at the time it is incurred. Each city and county officer and employee charged with the duty of expending moneys or of incurring obligations shall so regulate expenditures for any purpose that the same shall not in any one year exceed the amount appropriated therefor. No charge, claim or liability for any purpose shall be created against the city or a county for a sum in excess of the amount appropriated for such purpose.

§ 220. Records to be kept and abstracts published. In every department, board, body or office, there shall be kept a record of all its transactions. Once a week a brief abstract, omitting formal language, shall be made of all contracts awarded and entered into for work and supplies containing the names and residences by street and number of the parties to the contract and of their sureties, if any. A copy of such abstract shall be promptly transmitted to and published in the City Record.

§ 221. Copies of records to be furnished. The head of each department, board, body and office, except of the police and law departments and except the commissioner of accounts and statistics, shall with reasonable promptness furnish to every taxpayer de-



siring the same a certified copy of any record or part thereof, kept by any such department, board, body or office, upon payment in advance of five cents for every hundred words thereof. All records other than opinions of the law department, in a department, board, body or office, except in the police and law departments and in the office of the commissioner of accounts and statistics, shall at all times, subject to reasonable rules, be open to public inspection. If such inspection be refused, a person, on his sworn petition, describing the particular record that he desires to inspect, may, upon notice of not less than one day to the head of such department, board, body or office, apply to a justice of the supreme court for an order directing such inspection as such justice shall determine.

§ 222. Departmental proceedings; presumption of regularity. In all judicial proceedings, the acts, proceedings, authority and orders of a department, board, body, officer or employee of the city, or a county, shall be prima facie valid.

§ 223. Official records as evidence. A copy of any paper, record, book, document, minutes or map filed in any city or county department, board, body or office, when certified as a true copy by the head of the department, board, body or office or by a deputy, secretary or other officer performing the duties of a secretary, shall be admissible in evidence with the same force and effect as the original. Whenever a subpoena is served upon a city or county officer or employee requiring the production of an original paper, document, book, map, record or minutes, such officer may furnish a copy certified as herein provided, unless the subpoena be accompanied by an order of the court or other tribunal having jurisdiction requiring the production of the original.

§ 224. Reports and statistics. Each head of department, board, body and office shall once in three months transmit to the mayor, in such form and detail as he may prescribe, a report of the condition and transactions of the department, board, body or office as the case may be. A copy of such report shall be simultaneously furnished the comptroller, the board of estimate and board of aldermen. Special reports upon any subject within the jurisdiction of a head of department, board, body or office shall be furnished promptly, when required by the mayor, comptroller or board of estimate or board of aldermen. A corporation for which an appropriation is made in the budget, other than a corporation subject to the supervision of the commissioner of charities, shall, when required by the comptroller and in such form as

he may prescribe, furnish to the mayor, comptroller and board of aldermen a report of its condition and transactions.

§ 225. Taking of proof and testimony. A board, body, officer or employee empowered by this act to take proof and testimony shall have all the powers of a person authorized to take and hear testimony, as provided by section eight hundred and forty-three of the civil code, and of a person authorized by law to hear, try and determine a matter in relation to which proof may be taken, as provided by section eight hundred and fifty-four of the civil code. The head of each department, board, body and office of the city or a county, each member of a board or body of the city or a county and each deputy, secretary and head of a bureau in each department, board, body and office of the city or a county, may take proof and testimony as to any matter concerning which he or it has a duty to perform.

§ 226. Personal property; disposition of. Personal property of the city, no longer needed for public purposes, shall be sold at public auction, upon ten days' public notice in the City Record, to the highest bidder by the head of the department, board, body or office having control thereof; provided, that personal property may be exchanged for personal property of the same or greater value, or may be sold at private sale, without public notice, after approval in writing by the sinking fund commission or pursuant to rules and regulations adopted by said commission. The proceeds of each such sale shall be paid into the general fund for the reduction of taxation.

§ 227. Useless records. The appellate division of the supreme court in the first or second department upon petition of a county officer, and the mayor upon the petition of a city board, body or officer may direct such board, body or officer to destroy any records or papers deposited or filed in its or his office which the court or mayor deem to have become useless. When any such board, body or officer prepare a list of such records or papers alleged to be useless, with a statement of the reason therefor, the corporation counsel, if he approve it, shall present a petition to the court or to the mayor for such direction.

§ 228. Determination of controversies. The sinking fund commission shall determine any controversy with regard to jurisdiction, powers or administration that may arise between departments, boards, bodies, offices or officers, and its decision shall be final.

§ 229. Transfer of appropriations, property and records. Where existing powers or duties of a department, board, body, division, bureau, office, officer or employee of the city are, by this act, conferred or imposed upon, or transferred to another department, board, body, office, division, bureau, office, officer or employee of the city, all funds, property, records, books, papers and documents within the jurisdiction or control of the department, board, body, division, bureau, office, officer or employee now exercising such powers or duties, shall be immediately transferred and delivered to the department, board, body, division, bureau, office, officer or employee succeeding to such powers or duties. There shall likewise be transferred all unexpended appropriations made to enable the department, board, body, division, bureau, office, officer or employee to exercise the powers and duties so transferred.

§ 230. Temporary services. The head of a city or county department, board, body or office may secure expert or professional services of an occasional or temporary character without advertisement or public letting. A person furnishing such services shall not be deemed to be an officer or employee.

§ 231. Deputy or subordinate acting for principal. If in a city or county department, board, body or office there be one or more deputies, while there be no head of the department, board, body or office by reason of vacancy, or while such head be absent or disabled from acting, the deputy if there be but one shall act. If there be two or more deputies they shall act in the order of their rank as designated in their certificates of appointment; or if there be no such distinction in rank then in the order of their length of service in the department, board, body or office. If two or more deputies be of the same rank or the same length of service the senior in age shall so act; but the head of a department, board, body or office may designate any subordinate to act in his place during his absence or disability. If there be no deputy the head of the department, board, body or office may designate a subordinate to act in his place during his absence or disability. A deputy or subordinate acting for his principal shall possess the powers and perform the duties of the principal, except the powers of appointment to and removal from office.

## CHAPTER VII.

## OFFICERS AND EMPLOYEES.

- Article 1. General provisions. (§§ 240-262.)  
2. Uniformed force. (§§ 270-279.)  
3. Retirement of officers and employees upon annuities.  
(§§ 290-291.)

## ARTICLE 1.

## GENERAL PROVISIONS.

- Section 240. Appointment and removals.  
241. Actions for salaries; proceedings for reinstatement; limitations.  
242. Illegal removals; recovery.  
243. Abolished offices, positions and employments; status of incumbents.  
244. Transfer of personnel follows transfer of functions.  
245. Acceptance of office forfeits pension.  
246. Incompatible offices, positions or employments; holding prohibited.  
247. Salaries and grades continued.  
248. Regulation of salaries.  
249. Salary deductions; fines.  
250. Leaves of absence; vacations.  
251. Suspension without pay.  
252. Pay-rolls; civil service restrictions.  
253. Fees to be accounted for and paid over.  
254. Interest in contracts prohibited.  
255. Official bonds and undertakings.  
256. Liability for official acts.  
257. Influencing legislation prohibited.  
258. Charges against officers; payment of expense of defense.  
259. Officers, trustees of public property.  
260. False impersonation of an officer or employee.  
261. Resignations.  
262. Rules and regulations.

Section 240. Appointments and removals. Except as otherwise provided in this act or in the public officers law, the head of

each department, board, body or office of the city and each county, shall, without restriction or limitation, appoint and may at pleasure remove each subordinate whose appointment is directed by this act or other statute and each head of a bureau unless the incumbent be a member of the uniformed force of the police, fire or street cleaning department; and shall, in accordance with the provisions of the civil service law, appoint and may remove all other subordinates. Every person who shall be appointed or elected to a city or county office, position or employment shall receive a certificate of appointment or election. No person holding an office, position or employment classified by the municipal civil service commission as subject to competitive examination shall be removed until he has been allowed an opportunity to make an explanation; and the true grounds of removal shall in such case be entered upon the records of the department, board, body or office, and a copy thereof shall be filed with the municipal civil service commission. The head of a department, board, body or office of the city or a county may designate a deputy to receive such explanation. A subordinate other than a member of the uniformed force of the police, fire or street cleaning department, in a department, board, body or office of the city or a county, who shall have been absent from duty without leave for ten consecutive days, may be removed without notice and without trial, or without being allowed an opportunity to make an explanation.

§ 241. Actions for salaries; proceedings for reinstatement; limitations. No action shall be maintained by a city or county officer or employee to recover salary or compensation for services or salary or compensation forfeited, deducted or withheld, unless such action be commenced within one year after the cause of action shall have accrued; provided, that actions upon causes heretofore accrued and not barred by statute may be commenced within one year hereafter; but this section shall not be construed to extend the time in which actions upon causes heretofore accrued must be brought. No proceedings shall be commenced to procure the reinstatement of a city or county officer or employee, unless such proceeding be instituted within four months after the occurrence of the act complained of.

§ 242. Illegal removals; recovery. If a city or county officer or employee be removed from office, position or employment and be subsequently restored thereto by judicial order his recovery

for salary or compensation shall be limited to the difference, if any, between the aggregate amount of the salary or compensation and all sums of money he has earned in other employment or occupation between the date of removal and reinstatement. A person removed from an office, position or employment and reinstated shall have no claim against the city for the salary or compensation paid a de facto incumbent.

§ 243. Abolished offices, positions and employments; status of incumbents. When an office, position or employment be abolished or become unnecessary, or when the number of offices, positions or employments of a certain character be reduced, a person legally holding any such office or position or employment shall be deemed to be suspended without pay, and shall, within two years thereafter, be entitled to reinstatement in the same office, position or employment, or appointment to a corresponding or similar office, position or employment, if a vacancy exist. When an office, position or employment be abolished or become unnecessary, the head of the department, board, body or office shall furnish the name of the person affected to the municipal civil service commission, with a statement of the date of his original appointment. The municipal civil service commission shall forthwith place his name upon a list of suspended employees for such office, position or employment or for a corresponding or similar office, position or employment. The commission shall certify persons for reinstatement from such list in consecutive order according to dates of original appointment, before certifying from any other list, except that certifications from lists for promotion in a department, board, body or office shall be made if there be no person therefrom on the list of suspended employees. The failure of a person to accept reinstatement, after a reasonable notice, to an office, position or employment in the same borough at a salary or compensation not less than that provided for his previous office, position or employment shall constitute a relinquishment of his right to reinstatement. A person on any such list for reinstatement may be re-employed in the office, position or employment in which he was formerly employed, or in any similar office, position or employment, at a less compensation than theretofore received by him, and the acceptance of such employment shall constitute a relinquishment of his right to reinstatement, but the failure of any such person to accept, after reasonable notice, an office, position or employment at a less salary or compensation than the

position formerly held by him, shall not be held to be a relinquishment of his right to reinstatement, as herein provided.

§ 244. Transfer of personnel follows transfer of functions. Where existing powers or duties of a department, board, body, office, division, bureau, position or employment, or officer or employee of the city, are, by this act, conferred or imposed upon another department, board, body, division, bureau, office, position or employment, or officer or employee of the city, all officers and employees within the jurisdiction or control of the department, board, body, division, bureau, office, position or employment, or officer or employee now exercising such powers or duties shall, without change of salary, be transferred to the department, board, body, division, bureau, office, position or employment, or officer or employee succeeding to such powers or duties. Service in the department, board, body, division, bureau, office, position or employment from which transferred shall for all purposes be counted as service in the department, board, body, division, bureau, office, position or employment to which transferred.

§ 245. Acceptance of office forfeits pension. A person who, after having been retired from the city or county service and granted a pension or annuity, shall accept an office, position or employment to which any salary or compensation is attached in the service of the city or county, except election inspector, clerk or other temporary office provided for in the election law, notary public or commissioner of deeds shall, during such service or employment and while receiving salary or compensation therefor, relinquish and forfeit such pension or annuity.

§ 246. Incompatible offices, positions or employments; holding prohibited. No city or county officer or employee shall during his incumbency of an office or position or during his employment hold any other public office, position or employment, except notary public, commissioner of deeds or an office, position or employment in the national guard; and upon acceptance of any second office, position or employment the office, position or employment first held shall become vacant and determine. This prohibition shall not apply, however, to the holding of an office ex officio, or an office, position or employment without salary or compensation. The acceptance by any officer or employee whose salary or compensation is paid out of the city treasury of an appointment by any court as trustee in bankruptcy, receiver, referee or commissioner of appraisal or assessment shall vacate his office and terminate his employment.

§ 247. Salaries and grades continued. Except as otherwise provided in this act the salary or compensation of every city and county office, position and employment and every grade of office, position and employment in the service of the city and each county shall continue as now fixed until changed.

§ 248. Regulation of salaries. Subject to the limitations in this act or other statute, the board of estimate, with the approval of the board of aldermen, shall fix and may alter the salary or compensation for every city and county office, position and employment, including positions and employments in the labor class.

§ 249. Salary deductions; fines. The head of a city or county department, board, body or office may cause ratable deductions to be made from the salaries or compensation of the officers and employees therein, other than members of the uniformed forces of the police, fire or street cleaning departments, on account of absence from duty without leave, or as a fine for delinquency or misconduct; provided, that no such deduction shall be made, as a fine, in excess of thirty days' pay.

§ 250. Leaves of absence; vacations. Each city or county officer and employee, other than an employee in the labor class, shall be entitled to a leave of absence with full compensation for a period of at least two weeks in each calendar year. A vacation of two weeks with pay shall be granted each employee in the labor class who shall have been in the service for not less than six months. The head of a city or county department, board, body or office of the city or a county may grant to any officer or employee thereof, including per diem employees, leave of absence with partial compensation or without compensation, or leave of absence with full compensation on holidays or half holidays. The head of a department, board, body or office may grant to an employee thereof, whose compensation is payable by the day, who may be injured in the performance of his duties without negligence or default on his part, a leave of absence with full pay for a period not exceeding thirty days.

§ 251. Suspension without pay. The head of a department, board, body or office may suspend without pay an officer or employee thereof pending the hearing and determination of charges against him or the making of an explanation, as the case may be. If the person so suspended be removed he shall not be entitled to salary or compensation after suspension. If he be not removed, he shall be entitled to full salary or compensation



from the date of suspension to the date of reinstatement, less such deduction or fine as may be imposed.

§ 252. Pay-rolls; civil service restrictions. Except as otherwise provided in this act, salaries or compensation may be paid upon pay-rolls, upon which each person named shall separately receipt for the amount paid to him, and in every case of payment upon a pay-roll the warrant for the aggregate amount thereof may be made payable to the superintendent, foreman or other officer or employee designated for the purpose. No city or county officer or employee, whose duty it is to sign or countersign warrants, shall draw, sign, issue or authorize the drawing, signing or issuing of a warrant on the chamberlain or other disbursing officer for the payment of salary or compensation to a person in the classified civil service of the city or a county, except upon certificate of the municipal civil service commission that all provisions of the civil service law, and the rules adopted thereunder, have been complied with, so far as such law and rules apply to the person in whose favor the warrant is drawn.

§ 253. Fees to be accounted for and paid over. No city officer or employee, except marshal and commissioner of deeds shall have or receive to his own use any fee, perquisite, commission or percentage, but shall be paid a fixed salary or compensation, and all fees, percentages, perquisites and commissions received by him shall be the property of the city. Every city officer or employee who shall receive any fees, perquisites, commissions, percentages or other money which should be paid to the city shall, before he shall be entitled to receive any salary or compensation, make, under oath, a detailed return to the comptroller showing the amount of all such fees, commissions, percentages, perquisites and moneys received by him since the last preceding report, the person from whom received, and the reason for payment, and shall produce the receipt of the chamberlain, showing the payment to him, of the aggregate amount thereof. All sums received as above, or for licenses or permits, except as in this act otherwise expressly provided, shall be paid over weekly or monthly, as directed by the comptroller, without deduction, by the officer or employee or department receiving them, to the chamberlain, and a detailed return thereof under oath shall be made whenever and in such form as the comptroller may prescribe. The comptroller may require any such officer or employee to make such statement and return to him, if it be not made as herein provided, and may examine such officer or employee under oath

touching the amount of any fees, perquisites, commissions, percentages or moneys paid to or received by him in his official capacity.

§ 254. Interest in contracts prohibited. A city or county officer or employee shall not be interested, directly or indirectly, in a contract, work or business, or in the performance or conduct thereof, or in the sale of an article to the city or a county, the expense, price or consideration of which is payable either from the city treasurer, or by an assessment levied under or by virtue of any act or resolution of the board of estimate or other board, body or officer of the city; nor shall any such officer or employee be interested, directly or indirectly, in the purchase or lease of real estate or other property by or from the city or in the purchase or sale of a tax lien or the sale of any property by virtue of legal process at the suit of the city. A city or county officer or employee, who, while holding office or employment, shall knowingly become interested in the performance of any contract, work or business or in the sale of an article or the purchase or lease of real estate or other property hereinabove referred to, or shall acquire any interest therein, except by will or under the decedents' estate law, shall forfeit his office or employment. All contracts in which an officer or employee is or becomes interested shall, at the option of the board of estimate, be forfeited and void.

§ 255. Official bonds and undertakings. The board of aldermen, where no specific provision is made by law, shall by ordinance require each city or county officer or employee who receives or disburses public funds to furnish security for the faithful performance of his duties and the accounting for such funds. If the amount of such security be not so fixed, the head of the department, board, body or office may fix the same, subject to modification by ordinance. Whenever this act provides for the giving of an official bond or undertaking with surety, such surety may be a responsible fidelity or surety company authorized to do business in the state of New York, satisfactory to the officer, board or body required to approve such surety. When prescribed by ordinance the premiums upon all official bonds and undertakings of salaried city officers and employees shall be charges against the city. Except as otherwise provided in this act, every official bond or undertaking shall be filed in the office of the comptroller.

§ 256. Liability for official acts. No officer or subordinate of the health or tenement-house department shall be liable for any act done or omitted in good faith and with ordinary discretion, within

the scope of his official duties. A person whose property may be unjustly or illegally destroyed or injured pursuant to the action of either of said departments or its officers or subordinates, for which no personal liability may exist on the part of an officer or subordinate, may maintain an action against the city for recovery of damages, limited to the actual damages suffered.

§ 257. Influencing legislation prohibited. No officer or employee of the city or a county shall be or become a member of any club, association or organization intended to influence legislation for or in behalf of the department, board, body or office in which he is employed, or in behalf of any officer or employee thereof, or contribute any money, directly or indirectly, for such purpose.

§ 258. Charges against officers; payment of expense of defense. The board of estimate may audit and allow, as charges against the city, the reasonable costs, counsel fees and expenses paid or incurred by an officer whose salary is paid from the city treasury who shall have been a successful party in a proceeding or trial to remove him from office, or who shall bring or defend an action or proceeding in which his title to office is involved, or in which it is sought to convict him of a crime committed in the discharge of his official duties within the scope of his authority, or to review or prohibit such removal, or to obtain possession of his office; or by a commissioner in the justification and defense of his official conduct before a tribunal investigating the same, and not officially recommending his removal; but no such charges shall be paid unless the corporation counsel and presiding justice of the appellate division of the supreme court certify who was such prevailing party, and the value of the services rendered.

§ 259. Officers, trustees of public property. All city and county officers and employees are hereby declared trustees of the property, funds and effects of the city and a county respectively, so far as such property, funds and effects are or may be committed to their management or control, and every taxpayer residing in the city or a county is hereby declared to be a cestui que trust in respect to said property, funds and effects respectively; and any cotrustee or cestui que trust shall be entitled as against said trustees and in regard to said property, funds and effects to all the rules, remedies and privileges provided by law for a cotrustee or cestui que trust, to prosecute and maintain an action to prevent waste and injury to any property, funds and estate held in trust; and such trustees are hereby made subject to all the

duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the city or a county or by any cotrustee or cestui que trust aforesaid. The remedies herein provided shall be in addition to those now provided by law. An officer or employee of the city shall not, directly or indirectly, under penalty of removal, receive for his own use or benefit for services rendered in his office, position or employment, any present, fee, gift or emolument, except as otherwise provided in this act. -

§ 260. False impersonation of an officer or employee. No person shall falsely represent himself or another to be, or as authorized to act for, a city or county officer or employee, or use, wear or display, without authority, a shield or other badge or emblem such as is worn by a city officer or employee.

§ 261. Resignations. An officer or employee may deliver to the head of the department, board, body or office, or if such head consists of more than one member to a member thereof, a written resignation. Such resignation shall take effect upon delivery and shall be filed with the records of such department, board, body or office. The resignation of an officer or employee against whom charges are pending shall not take effect until it shall have been accepted in writing by the head of the department, board, body or office by acceptance indorsed on the resignation.

§ 262. Rules and regulations. The head of a department, board, body or office may make rules and regulations for the conduct of the business and the duties and discipline of the subordinates therein.

## ARTICLE 2.

### UNIFORMED FORCE.

Section 270. Government of force.

271. Punishment; police, fire and street cleaning departments.

272. Absence or desertion in police, fire and street cleaning departments.

273. Salary deductions.

274. Arrest, indictment or conviction.

275. Certiorari.

276. Salaries or compensation not to be reduced.

Section 277. Exemption from military and jury duty.

278. Political activity restricted.

279. Rehearing of charges ; reinstatement.

Section 270. Government of force. Upon the recommendation of the head of a department the board of estimate, by unanimous vote, may constitute a body of subordinates in the department the uniformed force thereof. The head of a department containing a uniformed force shall make and enforce orders, rules and regulations for the discipline, government and disposition thereof and the determination of charges against any member thereof.

§ 271. Punishment; police, fire and street cleaning departments. A member of the uniformed force of the police, fire or street cleaning department shall be punished only upon a determination of the head of the department, after hearing and examination by him or a deputy of written charges upon reasonable notice of not less than forty-eight hours to such member and opportunity to appear and be heard in person and by counsel and give evidence in his defense, but a member may be punished without notice for absence without leave or upon arrest, indictment or conviction. A member of the uniformed force of the police, fire or street cleaning department found guilty, upon charges, after notice and opportunity to be heard in his defense, of neglect or dereliction in the performance of official duty, or violation of rules and regulations, or disobedience of orders, or absence without leave, or other breach of discipline, or incompetency or incapacity to perform official duty, or an act of delinquency seriously affecting his general character or fitness for office, may be punished by the head of the department by reprimand, or fine, or by both reprimand and fine, or by loss of all or part of annual leave of absence, or by extra duty or by suspension from duty without pay for a period not exceeding thirty days, or by reduction in rank or grade, or both, or by dismissal from the force.

§ 272. Absence or desertion in police, fire and street cleaning departments. No member of the uniformed force of the police, fire or street cleaning department, under penalty of forfeiting the salary which may be due him, shall withdraw or resign from the force except by permission of the head of the department. Absence without leave of a member of any such the member so absent shall, at the expiration of such period, cease to be a member of such force and shall be dismissed therefrom

without notice. No leave of absence exceeding twenty days in any one year shall be granted or allowed a member of any such force except upon condition that such member waive and release all claim to salary for the period of such absence. This section, however, shall not apply to the members of any such force disabled by sickness or injuries which, in the opinion of the head of the department, were incurred in the service and the line of duty.

§ 273. Salary deductions. The head of a department may deduct and withhold salary or compensation from any member of a uniformed force, on account of absence without leave or because of sickness or other disability, physical or mental, not incurred in the service and line of duty; provided, however, that such deduction shall not exceed one-half the salary or compensation for the period of such absence, except in case of absence without leave.

§ 274. Arrest, indictment or conviction. A member of the uniformed force of a department who shall be indicted or arrested for a crime may be forthwith suspended from duty without compensation, and if finally convicted thereof shall be immediately dismissed from the service, without notice. Upon the reversal on appeal of such conviction he shall be restored, but upon reversal upon appeal of the judgment of reversal, he shall be dismissed without notice.

§ 275. Certiorari. The dismissal of a member of the uniformed force of a department shall be subject to review on certiorari.

§ 276. Salaries or compensation not to be reduced. The salaries or compensation now fixed by statute for the several ranks and grades of the uniformed force of a department shall not be reduced.

§ 277. Exemption from military and jury duty. A member of the uniformed force of a department shall not be liable to military or jury duty. Members of the uniformed force of the police and fire departments shall not be liable to arrest on civil process, or, while on active duty, to service of subpoenas from civil courts.

§ 278. Political activity restricted. A member of the uniformed force of a department shall not contribute, directly or indirectly, to a political fund, or be a member of a political club or association.

§ 279. Rehearing of charges; reinstatement. Upon written application to the mayor by the person aggrieved, and the written

consent of the mayor setting forth his reasons, the head of a department having a uniformed force may rehear the charges upon which a member of the force shall have been dismissed; provided the application be made within one year from the date of removal, and such former member waive in writing all claim against the city for salary. If the head of such department determine that such member was illegally or unjustly dismissed he may reinstate him and allow him the whole or a part of the time since dismissal to be applied on his time of service in the department, or grant such other relief as such head of department may determine just, or affirm the dismissal.

### ARTICLE 3.

#### RETIREMENT OF OFFICERS AND EMPLOYEES UPON ANNUITIES.

Section 290. Retirement of officers and employees.

291. Annuities.

§ 290. Retirement of officers and employees. The head of a department, board, body or office of the city or a county may recommend to the board of estimate the retirement from active service of any officer or employee thereof, other than one entitled to share in a pension, relief or retirement fund, who shall have been in the employ of the city, or the city and any of the municipalities, or parts thereof consolidated to form the city of New York, or a county for a period of at least thirty years and who is physically or mentally incapacitated for the performance of the duties of his office, position or employment. The term of service of any such officer or employee shall not be affected by any change in his title, duty or salary, or by any promotion, vacation, leave of absence, temporary disability by reason of sickness or accident, transfer from one department, board, body or office to another during his period of service, or by a change in any department, board, body or office in which service shall have been paid for by fees to a salaried office. The board of estimate may retire from active service any officer or employee recommended for retirement; reasonable notice of the recommendation shall be given to the person affected thereby, and he shall be given an opportunity by the board to show cause why he should not be retired. The reasons for retirement shall be entered upon the minutes of the board.

§ 291. Annuities. A person so retired from active service shall be granted by the board of estimate an annuity equal to one-half

of the amount which his annual salary or compensation averaged for the period of three years immediately prior to his retirement, not exceeding, however, the sum of one thousand five hundred dollars per annum. The annuities so granted shall be paid in equal monthly instalments during the lifetime of the person retired.

## CHAPTER VIII.

### DEPARTMENT OF FINANCE.

- Section 300. The comptroller; election, term, bond, salary.  
 301. Vacancy, how filled.  
 302. Deputies; secretary.  
 303. Jurisdiction.  
 304. Adjustment of claims and demands; restrictions.  
 305. Statements of unexpended balances.  
 306. Financial statement; publication required.  
 307. Execution of conveyances and leases; notice of awards.  
 308. Payments to private institutions.

Section 300. The comptroller; election, term, bond, salary. The head of the department shall be the comptroller. A comptroller shall be elected at the general election in the year nineteen hundred and thirteen and every four years thereafter, and shall hold office for a term of four years. He shall give a bond to the city in the sum of two hundred and fifty thousand dollars, conditioned upon the faithful discharge of his duties, the sureties thereon to be approved by the mayor. The salary of comptroller shall be fifteen thousand dollars a year.

§ 301. Vacancy, how filled. A vacancy in the office of comptroller shall be filled by the mayor. The term of office of the person so appointed shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election held not less than thirty days after such vacancy occur.

§ 302. Deputies; secretary. The comptroller shall appoint two deputies, an assistant deputy and a secretary. The comptroller may designate a deputy or deputies to perform any of the duties and exercise any of the powers of the office of comptroller for a



period not extending beyond his term of office. The comptroller may designate and authorize the assistant deputy, or other subordinate, to sign warrants drawn upon the chamberlain, and warrants so signed shall have the same force and effect as if signed by the comptroller. Each such designation shall be in writing and filed in the offices of the mayor and comptroller, and may, in like manner, be revoked.

§ 303. Jurisdiction. The department shall have control of the fiscal concerns of the city and each county except as otherwise provided in this act. The comptroller shall be the chief auditor, general comptroller of accounts and chief fiscal officer of the city. All accounts rendered to or kept in other departments, boards and offices of the city and each county shall be subject to the audit, inspection and revision of the officers of the department, under the general supervision of the comptroller. The comptroller shall prescribe the forms of keeping and rendering all such accounts, and, except as herein otherwise provided, the manner in which all salaries shall be drawn and all creditors, officers and employees of the city and the counties be paid.

§ 304. Adjustment of claims and demands; restrictions. Except as otherwise provided in this act, the comptroller shall examine, audit, adjust and settle all claims and demands in which the city or a county is concerned as debtor or creditor. The comptroller may require a person presenting a claim or demand requiring examination and audit or an assignor to be sworn before him or a deputy and to answer orally as to any facts relative to the justness of such claim or demand. A warrant for the payment of a claim or demand against the city or a county, payable in the first instance for moneys in the city treasury, for services rendered or work done or supplies furnished, shall not be signed by the comptroller, or by his order, unless it be certified by an auditor of accounts, or other officer or subordinate of the department authorized by the comptroller to examine and audit claims and demands, that such claim or demand is just and reasonable and only upon vouchers for the expenditure filed in his office; provided, that warrants shall be signed and issued by the comptroller without examination, audit or certificate to pay:

1. Judgments.

2. Awards, costs, charges or expenses duly taxed or ordered paid in an action or judicial proceeding to which the city or a board, body or officer thereof, or of a county, is a party.

3. Amounts certified by the head of a department, board, body or office to be due on contracts other than open market orders, including contracts for the purchase or lease of real property.

4. Claims adjusted and settled by the corporation counsel.

5. Fees and disbursements of referees, special counsel and experts in actions in which the city, or any of its departments, boards or officers is a party in interest, certified by the corporation counsel.

6. Costs, counsel fees and expenses of an officer who is a prevailing party to an action or proceeding, when audited by the board of estimate.

7. Amounts expended by each of the following departments, certified by the head of the department, for the following purposes: Health department for the cure and prevention of disease; department of water, gas and electricity for prevention of pollution of the water supply; department of fire, health and tenement house for executing orders the expenses of which are liens upon the property affected.

8. Amounts due for principal or interest on corporate stock, bonds, assessment bonds, revenue bonds, special revenue bonds and notes of the city.

9. The compensation of officers and employees in a city or county department, board, body or office, when certified by the municipal civil service commission.

The power hereby given to audit claims and demands shall not be construed to authorize the comptroller or a subordinate to dispute the amount of a fixed salary, nor to question the due performance of his duties by an officer or employee, except when necessary to prevent fraud.

§ 305. Statements of unexpended balances. The comptroller shall furnish each department, board, body or office, monthly, a statement of the unexpended balances of the appropriations therefor.

§ 306. Financial statement; publication required. The comptroller shall publish in the City Record within two months after the close of each calendar year a detailed statement of the city and county receipts and expenditures during the preceding year and the cash balance or surplus, specifying the different sources of revenue, the amount received from each, the several appropriations made, the objects of the same, the amount expended under each, the money borrowed, the authority under which each loan was made, and the terms on which it was obtained.

§ 307. Execution of conveyances and leases; notice of awards. Except as otherwise provided in this act, the comptroller shall, in the name and in behalf of the city, execute all conveyances and leases of real property. In proceedings to acquire real property, before an award be confirmed imposing an obligation upon the city to pay any moneys, the comptroller shall have thirty days' notice in writing, stating before whom and at what time application for confirmation will be made; but the provisions of this section shall not affect the jurisdiction and powers of the public service commission of the first district.

§ 308. Payments to private institutions. The comptroller shall not draw a warrant for payment by the city to a charitable, eleemosynary or reformatory institution wholly or partly under private control, for the care, support, secular education or maintenance of a child surrendered to such institution, or committed to, received or retained therein in accordance with any provision of this act or other statute, except upon the certificate of the commissioner of charities that such child has been received and is retained by such institution pursuant to the rules and regulations established by the state board of charities.

## CHAPTER IX.

### DEPARTMENT OF THE CITY TREASURY.

Article 1. The chamberlain. (§ 320-328.)

2. Receiver of taxes; collector of assessments and arrears. (§§ 340-363.)
3. Sale of tax liens. (§§ 375-399.)

## ARTICLE 1.

### THE CHAMBERLAIN.

Section 320. Chamberlain; election, term, bond, salary.

321. Jurisdiction of chamberlain.

322. Chamberlain treasurer of the city and the counties; city depositories.

323. Security required of depositories.

324. Disbursement of city money.

325. Reports.

Section 326. Appropriations; records; overdrafts prohibited.

327. Accounts of chamberlain; examinations.

328. Relief from taxes and assessments.

Section 320. Chamberlain; election, term, bond, salary. The head of the department shall be the chamberlain. He shall appoint two deputies and a secretary. A chamberlain shall be elected at the general election in the year nineteen hundred and thirteen and every four years thereafter, and shall hold office for a term of four years. The chamberlain shall give a bond to the city in the penal sum of three hundred thousand dollars with not less than four sufficient sureties to be approved by the board of estimate, conditioned upon the faithful discharge of his duties. The salary of chamberlain shall be fifteen thousand dollars a year. All commissions or compensation paid to him for receiving and paying over state taxes and all interest on deposits of public moneys shall be reported by him to the sinking fund commission and deposited by him subject to its order. In case of official misconduct or default on the part of the chamberlain, or a subordinate, an action upon his bond may be maintained by the attorney-general, or by the city, and the proceeds therefrom, after payment of the expenses of the litigation, shall be distributed among the persons entitled thereto.

§ 321. Jurisdiction of chamberlain. The chamberlain shall have control of:

1. The reception and safe-keeping of all moneys paid into the treasury of the city;
2. The collection of taxes and water rents returned;
3. The collection of assessments for local improvements and of arrears of taxes including water rents in arrear;
4. The collection of market rents and revenues;
5. The payment of all money from the city treasury.

§ 322. Chamberlain treasurer of the city and the counties; city depositories. The chamberlain shall be the treasurer of the city and shall possess the powers and perform the duties of a county treasurer of each county. He shall receive all moneys paid into the treasury of the city. He shall deposit to his account as chamberlain all city and county moneys which come into his hands on the day of their receipt, or on the next succeeding business day, in such banks or trust companies as shall have been designated city depositories by the mayor, comptroller and chamberlain, by

written designation filed in the offices of comptroller and chamberlain; but no deposit at any one time in any city depository shall exceed one-half of the amount of its capital and net surplus, nor shall any bank or trust company be so designated unless it agree to pay interest on daily balances at a rate to be fixed quarterly by the board of estimate. The chamberlain shall keep bank-books in which shall be entered all accounts of deposit and withdrawal, and each city depository shall transmit weekly to the comptroller a statement of the moneys received and paid by it on account of the city treasury.

§ 323. Security required of depositories. Banks or trust companies designated for the deposit of city moneys shall, before deposits are made, other than such as are of a temporary character and specifically relate to the current business of the city, severally execute and file with the chamberlain, a bond to the city in such form and in such amount as may be prescribed and approved by the mayor, chamberlain and comptroller for the safe-keeping and prompt payment of such moneys on legal demand therefor with interest at the rate agreed upon and, as surety for such bond, shall deposit with the comptroller outstanding unmatured bonds, corporate stock, revenue bonds, assessment bonds or other obligations issued by the city of New York, the value of which at existing prices on the open market shall be equal to the estimated amount of the proposed deposit, for which the chamberlain and comptroller shall deliver a certificate of deposit containing the conditions of said surety bond. On the withdrawal of all or a part of the funds deposited in any depository and a closing or depleting of the account thereof, or in the event of the deposit actually made being less than the estimated amount of such deposit, the chamberlain and comptroller shall certify to such settlement or depletion or difference and direct the surrender of the whole or a proportionate share of such deposit to the owner or owners thereof.

§ 324. Disbursement of city money. The chamberlain shall pay warrants drawn on the treasury only when signed by the comptroller and countersigned by the mayor. The chamberlain shall draw moneys only by check signed by him as chamberlain and subjoined and attached to such warrants and a city depository shall pay city moneys only upon such checks; but this provision shall not apply to checks transferring funds from one city depository to another. The chamberlain may designate, in writing, clerks to act as warrant clerks and sign checks in his name.

§ 325. Reports. The chamberlain shall report weekly in writing to the mayor and to the comptroller all moneys received by him, the amount of warrants paid by him, and the amount remaining to the credit of the city. He shall render to the board of aldermen and to the board of estimate at the first meeting of each, in the month succeeding that in which he enters upon his office, an exact statement of the balance in the treasury to the credit of the city, with a summary of the receipts and payments since the last preceding report.

§ 326. Appropriations; records; overdrafts prohibited. The chamberlain shall keep books showing the amounts of all appropriations and all payments on account thereof, and no warrant shall be paid on account of an appropriation after the amount appropriated shall have been expended.

§ 327. Accounts of chamberlain; examinations. The chamberlain shall exhibit his bank-books to the comptroller on the first Tuesday of each month, and at any other time when required. The accounts of the chamberlain shall be annually closed on the last day of December and shall be examined in the month of January in each year by the commissioner or commissioners of accounts and statistics. Such commissioner or commissioners shall examine the accounts and vouchers of all moneys received and paid out by the city treasury during the preceding calendar year, and shall certify and report to the mayor, comptroller, board of estimate and the board of aldermen in the following February, as follows:

1. The amount of money received into the treasury during such year;
2. The amount of moneys paid out during the same period upon warrants drawn on the treasury by the comptroller;
3. The amount of moneys received by the chamberlain in office at the time of such examination, if he entered upon the execution of his duties subsequent to the last preceding report;
4. The balance in the treasury on the last day of December preceding such examination;
5. The amount of moneys borrowed for or on the credit of the city during such year;
6. The amount of each class of obligations of the city issued during such year, with the purposes for which and the authority under which they were issued.

The commissioner or commissioners shall also examine the war-

rants drawn by the comptroller during the preceding calendar year and the several laws and ordinances under which the same purport to have been drawn, and shall certify whether the comptroller had power to draw such warrants; and if any be found drawn without authority the commissioner or commissioners shall specify the same with reasons.

§ 328. Relief from taxes and assessments. The chamberlain, acting under the written advice of the corporation counsel, may:

1. Hear and determine any application for relief from an assessment, or a part thereof, for a local improvement, provided that the amount of the assessment as so readjusted be paid forthwith by the applicant; and no person who shall have made an application to the board for relief hereunder shall thereafter maintain an action or proceeding for relief from such assessment or any part thereof, or to set the same aside;

2. Cancel in writing, vacate or reduce a tax, including water rents, or an assessment, other than one confirmed by a court of record, or any item of such tax or assessment, which by reason of want of authority, jurisdictional defect or substantial error is void or invalid, whether such invalidity appear upon the face of the proceedings or otherwise.

## ARTICLE 2.

RECEIVER OF TAXES; COLLECTOR OF ASSESSMENTS AND ARREARS.

Section 340. Receiver of taxes; collector of assessments and arrears; bonds.

341. Deputies; bonds.

342. Renewal of bonds.

343. Main and branch offices.

344. Daily statement and payment of taxes.

345. Failure to report to chamberlain or comptroller.

346. Account of taxes received; daily statement to comptroller; credit.

347. Receiver of taxes to return arrears to collector.

348. Actions for personal taxes.

349. Notice of confirmation of assessment.

350. Assessment lists to be filed.

351. Lien of taxes, assessments and water rents.

352. Collection of assessments for local improvements heretofore payable in instalments.

353. Interest on assessments for local improvements.

- Section 354. Part payment of assessment; instalments.
355. Payment of prior assessment in instalments.
356. Apportionment and part payment of assessment.
357. Entry of "arrears" and water rents in tax-roll.
358. Bills of arrears; searches.
359. Tax bills to show arrears; notice when tax lien will be sold.
360. Interest on arrears.
361. Examinations or accounts of receiver and collector and their deputies.
362. Affidavits of publication of necessary notices to be preserved.
363. Notification of assessments.

Section 340. Receiver of taxes; collector of assessments and arrears; bonds. The chamberlain shall appoint a receiver of taxes and a collector of assessments and arrears, each of whom shall, before entering upon the duties of his office, give a bond to the city, to be approved by the chamberlain and comptroller in such sum as shall be fixed by the board of estimate, conditioned for the faithful performance of the duties of his office. Such bonds shall be filed and remain in the office of the chamberlain, and true copies thereof, certified by the chamberlain, shall be filed in the office of the clerk of each of the counties and shall be public records. In case a certificate of the adjustment of the accounts of a receiver or collector be made, as hereinafter provided, a true copy thereof, certified by the chamberlain, shall be filed in the office of each such county clerk. Such record shall be notice for all purposes under the real property law.

§ 341. Deputies; bonds. The receiver of taxes and the collector of assessments and arrears shall each appoint a deputy in and for each borough. Each deputy shall give a bond conditioned upon the faithful performance of his duties, to be approved by the receiver of taxes, or the collector of assessments and arrears, as the case may be, and the comptroller and chamberlain, and in such penal sum as they shall determine. The receiver of taxes and the collector of assessments and arrears shall each be liable for the acts and defaults of his deputies. Each deputy shall have all the powers and be subject to all the duties of the officer appointing him.

§ 342. Renewal of bonds. If at any time during the continuance in office of a receiver of taxes or collector of assessments and



arrears, or a deputy of either, the chamberlain deem a surety on any bond to be sufficient, he may require such receiver, collector or deputy, within a specified period of not less than ten days, to give a new bond to be approved in like manner as the original. If such officer fail to furnish such bond within the time so specified, the chamberlain may declare his office vacant.

§ 343. Main and branch offices. The receiver of taxes and the collector of assessments and arrears shall each have his chief office in the borough of Manhattan, and a branch office in each of the other boroughs. Taxes, assessments and arrears due upon property shall be payable at the office of the receiver of taxes or collector of assessments and arrears, respectively, in the borough in which the property is situated.

§ 344. Daily statement and payment of taxes. The receiver of taxes and the deputy in each borough shall enter in a suitable book the sums received for taxes and the names of the persons on whose account payments of taxes are made. The receiver shall, each day, render a statement to the chamberlain of the taxes paid in each borough on the preceding day, and deliver to him the moneys and certificates of deposit so received. The chamberlain shall receipt therefor in duplicate. The receiver shall forthwith file one duplicate with the comptroller and retain the other. The receiver and the deputy receiver in each borough shall, daily, at the close of office hours, deposit the taxes received by him in a city depository in the borough, and take a certificate of deposit therefor; and before noon of the succeeding day each such deputy shall transmit to the receiver a statement of the taxes received, together with such certificates of deposit.

§ 345. Failure to report to chamberlain or comptroller. If the receiver of taxes fail to file with the chamberlain or comptroller the required statement or receipt, or make the required daily payments, the chamberlain shall forthwith suspend him from office. In case of like default by a deputy receiver the receiver shall forthwith suspend him from office. In case of such suspension, the chamberlain or receiver, as the case may be, shall appoint a suitable person to perform the duties of the officer so suspended, who shall continue to act as such officer, with all the powers conferred upon him by this act, until the officer suspended shall be restored, or another person shall have been appointed. On making such temporary appointment, the chamberlain or receiver shall require

from the person so appointed a bond, in all respects like that given by the officer in whose place he was appointed, to be approved in like manner.

§ 346. Account of taxes received; daily statement to comptroller; credit. The receiver and each deputy shall enter in a column upon each book of the tax-roll in his possession, opposite each tax entry on account of which payment shall have been made, the fact and date of such payment and the amount thereof, and also enter in suitable books the several amounts and the names of the respective parties on whose account payments of taxes shall have been made; the receiver shall, daily, file with the comptroller a detailed statement of the taxes paid in each borough on the preceding day, specifying the names of the parties on whose account the same shall have been paid. The comptroller shall, on each day, immediately after receiving such statement, compare the same with the duplicate receipt of the chamberlain filed with him, and if the aggregate amount shown by the statements shall be the same as that of the receipt, he shall credit the chamberlain with such amount.

§ 347. Receiver of taxes to return arrears to collector. The receiver of taxes shall, on the first day of March, in each year, make a return to the collector of assessments and arrears, of all taxes on real estate and of water rents, which shall have been added thereto, remaining unpaid, and shall notify the comptroller of the aggregate amount of arrears so returned and balance on his books the accounts of the arrears so returned, by charging the amount thereof to the said collector, and shall thereafter receive no payments on account of arrears so returned, but may nevertheless certify to the collector of assessments and arrears any errors, which shall, upon such certificate, be corrected by the said collector at any time before settlement.

§ 348. Actions for personal taxes. In the year in which they are payable, the receiver of taxes shall, on or before the first day of August, send all cases of unpaid personal taxes, other than taxes on bank shares, and on or before the first day of December all cases of unpaid taxes on bank shares, to the corporation counsel for collection. Any such unpaid taxes may be recovered, with interest and costs, by the city in an action in a court of record. The court in which any suit or proceeding shall have been commenced to enforce the payment of a tax for personal property may, on motion of either party, dis-

miss the suit or proceeding absolutely without costs, or conditionally, upon the payment of costs, or ~~may~~, on the facts, in its discretion, dismiss such suit or proceeding on the payment of such part of the tax and costs as shall be just, in any case where it shall be satisfied that the person or persons taxed are unable for want of property to pay the tax in whole or in part, or where for other reasons upon the facts as they existed, either before or after the assessment was made, it appear to the court just that the tax should not be paid, and the court may direct the cancellation or reduction of the tax. The imposition of costs in such cases shall be discretionary with the court. All suits or proceedings for the collection of personal taxes must be commenced within one year from the date after such taxes shall have been sent to the corporation counsel for collection. The corporation counsel shall pay over, under oath, to the receiver of taxes monthly, all taxes collected by him. If a suit or proceeding be dismissed under this section, on payment of a portion of the tax, a copy of the order of the court shall be filed with the receiver of taxes and a note of the contents of such order shall be entered upon the tax-roll. The corporation counsel shall report to the tax department on the first day of September in each year all cases dismissed on account of the inability of the person to pay the tax, and the tax department may strike the names of all such persons from the assessment-rolls for the succeeding year.

§ 349. Notice of confirmation of assessment. The chamberlain shall give public notice, by advertisement, for at least ten days, in the City Record as soon as practicable and within ten days after the confirmation of an assessment, that the same has been confirmed, specifying the title of such assessment, and the date of its confirmation, and also the date of entry in the office of the collector of assessments and arrears, and that unless the amount assessed be paid within sixty days after the date of entry of such assessment, interest will be collected thereon at the rate of seven per centum per annum from the date when such assessment became a lien.

§ 350. Assessment lists to be filed. There shall be kept in the office of the collector of assessments and arrears a full and complete record, in detail, of all lists of assessments confirmed, whether by the supreme court or the board of revision or the board of assessors, with the date of confirmation and the date of entry in such record, which record shall be open to inspection during office hours, and the same shall be received as presumptive evidence of

the facts therein contained. If any such assessment lists affect property situated in a borough, other than the borough of Manhattan, a copy of such list shall forthwith be transmitted to and filed in the office of the collector of assessments and arrears in the borough in which the property so affected is situated.

§ 351. Lien of taxes, assessments and water rents. Taxes and assessments for local improvements and interest thereon, and all water rents included in tax-rolls, and the interest and charges thereon, heretofore or hereafter laid upon any real property, shall continue to be, until paid, a lien thereon, and shall be preferred in payment to all other charges. An assessment for a local improvement shall not be deemed fully confirmed, so as to be due and be a lien upon the real property affected thereby, until ten days after the title thereof, with the date of confirmation, shall have been entered, with the date of such entry, in the record of the titles of assessments confirmed, to be kept in the office of the collector of assessments and arrears.

§ 352. Collection of assessments for local improvements heretofore payable in instalments. Where by any statute in force on the thirty-first day of December, nineteen hundred and seven, assessments for local improvements shall have been made payable in instalments or collectible in or with the taxes levied of any year, such assessments and instalments shall be levied and be collected by the receiver of taxes and collector of assessments and arrears, under and pursuant to the provisions of said statute.

§ 353. Interest on assessments for local improvements. Except as otherwise provided herein, if an assessment for a local improvement remain unpaid for a period of sixty days after the date of entry thereof in the record of titles of assessments, interest thereon shall become due and payable at the rate of seven per centum per annum from the date when such assessment became a lien to the date of payment.

§ 354. Part payment of assessment; instalments. The collector of assessments and arrears shall accept, in part payment of an assessment for a local improvement, such sum not less than fifty dollars as may be tendered, and credit the same on account thereof. When an assessment for a local improvement in the boroughs of Bronx, Queens or Richmond, exceeding twenty dollars on any one parcel of land, shall hereafter be confirmed, the collector of assessments and arrears shall divide the same into five instalments as nearly equal in amount as may be. Each such instalment shall bear interest at the rate of five per centum per

annum from the date when the assessment shall have become a lien. The first instalment, with such interest, shall be paid within one year from the date when the instalment shall have become a lien; the second instalment, with such interest, shall be paid within two years from said date; the third instalment, with such interest, shall be paid within three years from said date; the fourth instalment, with such interest, shall be paid within four years from said date; and the fifth instalment, with such interest, shall be paid within five years from said date. After the time herein specified for payment thereof each unpaid instalment with accrued interest shall bear interest at the rate of seven per centum per annum. Any instalment may until the lien thereof be sold be paid at any time, with such interest to the date of payment. If an instalment and the interest thereon be not paid within three years after the time herein specified for payment thereof, the entire assessment, less such part thereof as shall theretofore have been paid, shall become due and payable and the tax lien of the entire assessment may be immediately sold.

§ 355. Payment of prior assessments in instalments. When the owner of real property in the boroughs of Bronx, Queens or Richmond affected by an assessment heretofore confirmed shall make application therefor within three years after such assessment shall have become a lien, the collector of assessments and arrears shall divide such assessment into five annual instalments in the same manner as is provided in the preceding section with respect to assessments hereafter confirmed. Thereafter the first instalment of such assessment, with interest thereon at the rate of seven per centum per annum from the date when it became a lien, shall be paid one year from the date of such division as it shall appear on the books of the collector, and one of the remaining instalments with interest thereon at the rate of seven per centum per annum from the date when it became a lien shall be paid each year thereafter. Any instalment may, until the lien thereof be sold, be paid at any time with such interest to the date of payment. If any such instalment with accrued interest be not paid within three years after the date when the same is herein required to be paid, the entire assessment shall again become due and payable and the tax lien of the entire assessment may be immediately sold.

§ 356. Apportionment and part payment of assessment. If an assessment for a local improvement be made upon any real property any person claiming any divided or undivided part thereof

may pay such part of the assessment, also of the interest and charges due or charged thereon, as the chamberlain may deem to be just and equitable; and the remainder of the sum of money so assessed, together with the interest and charges, shall be a lien upon the residue of the real property only, and the tax lien upon such residue may be sold, to satisfy the residue of such assessment, interest, or charges thereon, in the same manner as though the residue of said assessment had been imposed only upon such residue of real property.

§ 357. Entry of "arrears" and water rents in tax-roll. The collector of assessments and arrears shall annually between the fifteenth day of April and the first day of May cause to be entered on the tax-roll the word "arrears" opposite the tax entry of each parcel of real property on which there shall remain unpaid any arrears of taxes or any unpaid water rents returned to him by the receiver of taxes or any assessment which was due or confirmed one month prior to the first day of February next preceding.

The receiver of taxes shall between the first day of April and the fifteenth day of April of each year enter upon the tax roll with each entry of real property thereon, the amount, if any, of the unpaid water rents returned in that year by the commissioner of water, gas and electricity chargeable against such property.

§ 358. Bills of arrears; searches. The collector of assessments and arrears, upon the requisition of the owner, the proposed vendee under a contract of sale, a mortgagee, or a person having a vested or contingent interest in any real property or his duly authorized agent, shall furnish a bill of all arrears of taxes, and of taxes with the water rents added on any such property which were due prior to the first day of March, next preceding, and of assessments which are due and payable; and upon the payment of the said bill (which shall be called a "bill of arrears of assessments, taxes and water rents"), his receipt thereon, countersigned by the chamberlain, shall be conclusive evidence of such payment. The chamberlain shall cause to be kept a duplicate account of amounts so collected, and when collected. If no such arrears or assessments be found, the collector of assessments and arrears shall deliver his certificate, countersigned by the chamberlain, that there are no such arrears or assessments on said real property, which certificate shall forever free the said real property

from all such arrears and assessments, but not from the lien of any tax lien duly sold. Fees for such bills of arrears, searches and certificates shall be regulated by the chamberlain and be paid into the city treasury.

§ 359. Tax bills to show arrears; notice when tax lien will be sold. There shall be a column for "arrears" in every tax bill in which shall be set opposite the statement of tax the word "arrears," if there are arrears of taxes or taxes with water rents added or unpaid assessments chargeable upon the property, or if tax liens thereon have been sold which are redeemable, and at the bottom of the bill shall be a notice that when any tax, or any water rents on the tax-roll shall remain unpaid for three years, or any assessment shall remain unpaid for a period of three years after it became a lien, the tax lien on the property will be sold to satisfy such arrears, and that particulars of such arrears may be obtained and payment thereof made at the office of the collector of assessments and arrears.

§ 360. Interest on arrears. Interest shall hereafter be charged and collected at the rate of seven per centum per annum on all assessments and on all arrears of taxes returned to the collector of assessment and arrears, from time to time they become due and on water rents and the penalties thereon from the time the taxes, to which they are added, become due, until the date of payment. Unless otherwise provided herein the rate of interest upon any tax, assessment or water rent shall not be reduced below the amount fixed by law.

§ 361. Examination of accounts of receiver and collector and their deputies. Whenever a receiver of taxes or a deputy receiver or a collector of assessments and arrears or a deputy collector shall cease to hold office, or shall execute and file a new bond, the chamberlain shall within one year thereafter examine and adjust the accounts of such receiver or collector or deputy, and if the same be found correct the chamberlain shall cause a certificate of adjustment to be filed with the bond of such officer, and such certificate so filed shall be a full discharge and satisfaction of the condition of such bond and the lien or liens thereby created.

§ 362. Affidavits of publication of necessary notices to be preserved. The collector of assessments and arrears shall procure, preserve and register in his office affidavits of the publication of all the notices by this chapter required to be published, and such affidavits shall be presumptive proof of such publication in all courts.

§ 363. Notification of assessments. In the office of the collector of assessments and arrears there shall be a notification clerk. The owner or any person interested in any real property may file with the notification clerk a statement containing a brief description of real property sufficient to enable the clerk to identify the same, and a statement of the applicant's interest therein, and post-office address, together with a request that such real property be registered in the name of the applicant. The notification clerk shall thereupon register in a volume to be kept by him a brief description of such real property, together with the name of the applicant, his post-office address and the date of receipt of the application. Within twenty days after an assessment for a local improvement shall have been entered and list thereof filed in the bureau, the notification clerk shall mail a notice, addressed to each person at his registered post-office address in whose name a parcel of land affected by such assessment is registered, which notice shall contain the description of the real property registered in the name of such person, together with the amount assessed thereon, date of confirmation, title of the improvement, and a statement of the interest or penalty imposed for nonpayment of the assessment, and the date from which the interest or penalty will be computed. Failure to give or any error in such notice shall not affect the validity or collectibility of the assessment, or impose any liability upon the city or an officer or employee.

### ARTICLE 3.

#### SALE OF TAX LIENS.

Section 375. Sale of tax lien; notice requiring payment.

376. Conduct of sale.

377. Cancellation of leases or certificates or transfers of tax liens held by city.

378. Suspension or postponement of sale.

379. Deposit by purchaser; bids by city; forfeiture of deposit; resales.

380. Transfers of tax liens.

381. Records of transfer of tax liens.

382. Rights of purchaser of tax lien.

383. Discharge of tax lien.

384. Exemption from taxation of tax liens and transfers.

385. Foreclosure of tax lien.



- Section 386. Pleading transfer of tax lien.
387. Presumption of validity of tax lien.
388. Judgment of foreclosure of tax lien.
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391. Procedure of no bid for tax be received.
392. Reimbursement for invalid, defective or ineffectual tax liens or transfers of tax liens.
393. Reimbursement when part of tax lien is invalid, defective or ineffectual.
394. Persons interested may question transfers of tax liens; examination by corporation counsel.
395. Foreclosure tax lien not to be included as "arrears."
396. Corporation counsel to protect interests of city.
397. Defective or invalid tax lien or transfer; new sale.
398. Lost transfer of tax lien; duplicate.
399. Apportionment of tax liens and transfers of tax liens.

Section 375. Sale of tax lien; notice requiring payment. The term real property as used in this article means real property as defined by the tax law. The right of the city to receive taxes, assessments and water rents, and the lien thereof, may be sold by the city, and after such sale shall be transferred, as provided herein. The right and lien so sold shall be called "tax lien" and the instrument by which it is assigned shall be called "transfer of tax lien." Whenever a tax on real property shall have remained unpaid for three years, or any water rents entered on a tax-roll shall have remained unpaid for three years from the time they were due and payable to the receiver of taxes or an assessment on real property for local improvements or other assessment shall have remained unpaid for a term of three years from the time the same shall have been entered and payable in the office of the collector of assessments and arrears, the collector of assessments and arrears, under the direction of the chamberlain, may advertise the tax liens on any such real property for sale, including in such advertisement the tax lien for all items up to a day named in the advertisement to which all such items became due, and by such advertisement the owners of such real property shall be notified to pay to the collector the amounts of such unpaid tax assessment, or water rent and penalties, together with the interest thereon, to the

time of payment, with the charges of such notice and advertisement, and notice shall be given by such advertisement that if default be made in such payment the tax lien on such real property will be sold at public auction at a day and place therein specified, for the lowest rate of interest, not exceeding twelve per centum per annum, at which any person will offer to take the same in consideration of advancing the said tax and assessment and water rents and penalties, as the case may be, the interest thereon to the time of sale, the charges of the above-mentioned notices and advertisement and all other costs and charges accrued thereon.

§ 376. Conduct of sale. If, notwithstanding such notice, the owner or owners fail to make such payment the collector, under the direction of the chamberlain, shall cause such tax lien to be sold at public auction, in accordance with said advertisement, and such sale shall be made on the day and at the place mentioned in the advertisement, and shall be continued from time to time, if necessary, until all the tax liens so advertised be sold or, with the approval of the chamberlain, where question is raised as to their validity or enforceability, withdrawn from the sale. Such notice of sale of tax liens shall be published once in each week successively for three months in the City Record and the advertisement shall contain, appended to the notice, a statement of the property the tax lien on which is to be sold. Or the said statement, instead of being published in the City Record, may, at the option of the chamberlain, be printed in a pamphlet, in which case copies of the pamphlet shall be deposited in the office of the collector, and shall be delivered to any person applying therefor. The published notice of sale shall state that such statement is published in the City Record or in a pamphlet, and if in a pamphlet that copies of the pamphlet are deposited in the office of the collector, and will be delivered to any person applying for the same. No other notice to pay or of sale of tax lien shall be required.

§ 377. Cancellation of leases or certificates or transfers of tax liens held by city. The collector of assessments and arrears may, with the written approval of the chamberlain, cancel any certificate or lease or transfer of tax lien for unpaid taxes, assessments and water rents, held by the city, or to which the city has acquired the right, and upon such cancellation, the lien of such tax, assessment or water rents shall be and remain the same as if no sale for such unpaid tax, assessment or water rents had been made.

§ 378. Suspension or postponement of sale. The chamberlain may suspend or postpone any sale or sales of tax liens which

shall have been advertised for sale, to any time not exceeding fifteen months from the day specified in any such advertisement. All sales which shall have been so postponed or suspended may be made without further advertisement, other than a general notice of such postponement, to be published in the City Record.

§ 379. Deposit by purchaser; bids by city; forfeiture of deposit; resales. The collector of assessments and arrears or a deputy shall conduct the sales hereinbefore provided to be made, and no auctioneer other than said collector or a deputy shall be employed to make such sales, and no auctioneers' fees shall be charged thereon. The chamberlain shall require from each purchaser of a tax lien, at the time of such sale, a deposit on account of ten per centum of the amount of the tax lien purchased by him, and not later than thirty days from the date of sale the balance shall be paid to the collector, at his office, unless the time be extended for a reasonable time by the chamberlain for examination of claims of invalidity or error. If no bid be received for a tax lien offered for sale, the collector for and in behalf of the city may bid in such tax lien, and upon such bid no deposit or payment in cash shall be required from the city. When the city shall have bid in a tax lien a transfer of the same to the city shall be executed by the collector in the form and manner prescribed for other transfers of tax liens, and the city shall have the same rights in, to and under such transfer of tax lien as if the same had been purchased by a natural person, including the right to assign and transfer the same. In cases of transfers of tax liens executed to the city, the collector, with the approval of the chamberlain, may assign any such transfer of tax lien which has not been redeemed to any person who shall, at any time before the commencement of foreclosure proceeding by the city, offer to take the same upon payment to the said collector, for the city, of the purchase amount with interest thereon at the rate of twelve per centum per annum from the date of sale to the date of assignment. The person so receiving the assignment shall be entitled to receive the amount for which the tax lien was sold to the city with interest from the date of sale at the rate of twelve per centum per annum, in the same manner as if said person had been a purchaser of the transfer of tax lien at the sale. Transfers of tax lien shall be made and delivered to the purchaser without charge, upon payment of the amount therein stated to be due. If a purchaser do not complete his purchase in accordance with the

terms thereof, the amount deposited by him at the time of the sale shall be forfeited to the city, and the entire tax lien upon the real property affected by such purchase shall be sold again. Such resale shall be held at such time as the chamberlain may direct and shall be advertised in the City Record, in such manner and for such time, not less than two weeks, as the chamberlain direct. All deposits forfeited as aforesaid shall be paid into the general fund of the city.

§ 380. Transfers of tax liens. A transfer of tax lien shall operate to transfer and assign the tax lien, including penalties and interest, charges of advertisement and notice and all other costs and charges so advertised for sale, free of all taxes, assessments and water rents, which became a lien up to the day named in the advertisement of sale as stated therein, and to create a lien upon the property affected thereby for the interest to which the purchaser may be entitled under his bid, but subject to the lien for and right of the city to collect and receive all taxes, assessments and water rents with penalties, interest and charges, which became a lien or which accrued on and after the day named in the advertisement of such sale as stated therein. A transfer of tax lien shall contain a transfer and assignment by the city for the tax lien sold to the purchaser, the date of the sale, the name and post-office address by street and number, if any, of the purchaser, the aggregate amount of the tax lien so transferred, and the items of taxes, assessments, water rents, penalties, interest and charges composing the lien, the annual rate of interest which the purchaser has bid and will be entitled to receive, the date when the amount of the tax lien will be due, and a description of the real property affected by the tax lien, which description shall include the name of the borough in which the real property is situated and shall refer for certainty to the designation of the property on the tax map, by its lot number and the number of the block, ward or section in which it is contained, if any, or if there be none, by such other description as the collector may deem sufficient to identify the property. Each transfer of tax lien and assignment of transfer of tax lien by the city shall be subscribed by or in behalf of the collector of assessments and arrears making the sale, or a successor, and shall be acknowledged by the officer subscribing the same in the manner in which a deed is required to be acknowledged to be recorded.

§ 381. Record of transfers of tax liens. The collector of assessments and arrears shall keep in his office a public record of sales of tax liens, and a copy of each transfer of tax lien issued

by him. Assignments of transfers of tax lien duly acknowledged, and containing the name and post-office address by street and number, if any, of the assignee, may be filed and recorded in the office of the collector of assessments and arrears or a memorandum thereof may be made by him upon the records of his office. A transfer of tax lien or an assignment thereof, duly acknowledged, shall be deemed a conveyance under the real property law, and may be recorded in the office of the recording officer of the county in which the real property which it affects is situated. Transfers of tax lien and all assignments thereof shall be recorded by recording officers in the same manner as mortgages and assignments thereof, but without payment of a recording tax. The record in the office of the collector of assessments and arrears of sales of tax liens, of a transfer of tax lien, of a copy of a transfer of tax lien, and of an assignment of a transfer of tax lien; a record in the office of a recording officer of a transfer of tax lien and of an assignment of tax lien shall each be evidence in any court without further proof. A transcript of any record enumerated in this section, duly certified, shall be evidence in any court with like effect as the original record. Neither the tax lien nor the rights transferred or created by a transfer of tax lien shall be required by failure of a recording officer to record a transfer of tax lien made by the city through the collector of assessments and arrears. Unless a contrary intent appear, a tax lien shall be presumed to be satisfied and discharged whenever it appears from recorded instruments that the tax lien has been transferred or assigned to the owner of the property affected, notwithstanding other intervening estates or liens. A satisfaction executed and acknowledged by the collector, reciting the surrender to him of the transfer of tax lien, shall suffice to discharge of record such transfer of tax lien in any office in which it may have been recorded.

§ 382. Rights of purchaser of tax lien. The aggregate amount of each tax lien transferred shall be due three years from the date of sale. Until such aggregate amount be fully paid and discharged, the holder of the transfer of tax lien shall be entitled to receive interest on such aggregate amount from the day of sale, semi-annually on the first day of January and July, at the rate which the purchaser shall have bid. At the option of the holder of a transfer of tax lien the aggregate amount thereof shall become due and payable upon default in the payment of interest for thirty days, except, that there shall be no default for failure to pay

interest until seven months from the date of sale, or upon default for six months after the delivery of the transfer of tax lien in the payment of any taxes, assessments or water rents, which became a lien on or after the day of the date mentioned in the advertisement of the sale as stated therein, of the tax lien transferred by such transfer of tax lien, except that there shall be no default for failure to pay such taxes, assessments or water rents until six months after the same shall become liens. Any person having a legal or beneficial interest in property affected by a transfer of tax lien may satisfy the same before maturity upon giving thirty days' notice in writing to the holder thereof as shown by the records of the collector, of the day on which payment will be made and upon payment of the principal with interest at the rate bid to a time three months after the day so fixed for payment, but if notice of intention to make payment be given as herein provided, and such payment be not made, then the whole amount of a tax lien concerning which such notice shall have been given shall become due and payable at the option of the holder; or any such person may, before maturity of the transfer, pay to the collector of assessments and arrears such principal with interest, at the rate bid, up to a day six months after such payment. Only service upon the collector of notice duly sworn to by the holder of the lien or his attorney stating that foreclosure proceedings have actually been commenced with the date thereof shall operate to prevent the collector from accepting such payment. In case such payment be made to the collector of assessments and arrears he shall receive the same for the benefit of the holder of the tax lien thus discharged, and shall give notice thereof to the purchaser or the personal representative or assignee of the purchaser, by mail addressed to such address as may have been furnished him. Upon receiving surrender of such transfer of tax lien the collector of assessments and arrears shall pay the amount thus deposited to the person who, according to the records in his office, appears to be entitled thereto, or to the personal representatives of such person.

§ 383. Discharge of tax lien. A tax lien which has been transferred must be discharged upon the record thereof by the collector of assessments and arrears and when payment is made to him of the principal and interest as provided in the last preceding section, and also when the transfer of tax lien is surrendered to him for cancellation and there is presented to him a certificate execu-

ted by the purchaser, or the personal representative or assignee of record of the purchaser, acknowledged so as to be entitled to be recorded in the county in which the real property affected by such tax lien is situated, certifying that the tax lien has been paid or has been otherwise satisfied and discharged. The transfer of tax lien thus surrendered and such certificate of discharge must be filed by the collector of assessments and arrears and he must note upon the margin of the record of such sale, upon such transfer of tax lien and upon the copy of the transfer of tax lien kept in his office a minute of such discharge and the date of filing thereof. If the transfer of tax lien shall have been lost or destroyed or mutilated, if payment be made to the collector of assessments and arrears, or if a certificate of discharge be filed as hereinafter provided, application for an order dispensing with the surrender of the transfer of tax lien may be made in the same manner as is provided in the real property law, for recording the discharge of mortgages in counties embraced in cities of the first class, the provisions of which, so far as the same may be, are hereby made applicable to discharge of tax liens. The collector of assessments and arrears shall upon demand issue his certificate showing discharge of the tax lien which shall have been fully discharged, and such certificate may be filed in any office where the transfer of tax lien is recorded, and any recording officer with whom such certificate is filed shall, without requiring the surrender of the transfer of tax lien, record the same, and the collector shall note upon the margin of the record of such transfer of tax lien in his office a statement that the same has been discharged with a reference to the record of such certificate in his office.

§ 384. Exemption from taxation of tax liens and transfers. Tax liens and transfers of tax liens shall be exempt from taxation for all purposes, except from taxes imposed upon taxable transfers.

§ 385. Foreclosure of tax lien. If the amount of a tax lien which shall have been transferred be not paid when due, either by expiration of time or the exercise by the holder of his option upon default, the holder may maintain an action in the supreme court to foreclose such tax lien. In an action to foreclose a tax lien any person shall be a proper party who the plaintiff alleges has or may have, or that he has reason to believe has or may have, an interest in or claim upon the real property affected by the tax lien, except that the city shall not be a party to any such action unless prior to

the institution thereof a notice shall have been given by the holder of the lien to the chamberlain, setting forth the interest or claim of the city which the holder has reason to believe the city has or may have to or in the property which is sought to be foreclosed and unless it shall appear by and as an allegation of the complaint that at least thirty days have elapsed since such notice was given. If the city or state be made a party defendant the reasons therefor shall be stated in the complaint. Except as otherwise provided in this act an action to foreclose a tax lien shall be regulated by the provisions of the civil code and by all other provisions of law and rules of practice applicable to actions to foreclose mortgages on real property, including the provisions as to costs and disbursements and allowances. The people of the state of New York may be made a party to an action to foreclose a lien in the same manner as a natural person. When the people of the state of New York or the city of New York is made a party defendant, the complaint shall set forth, in addition to the other matters required to be set forth by law, detailed facts showing the particular nature of the interest in or the lien on the said real property of the people of the state of New York or the city of New York, and detailed facts showing the particular nature of the interest in or the lien on said real property which the plaintiff has reason to believe that the people of the state of New York or the city of New York has or may have in the said real property, and the reason for making the people of the state of New York or the city of New York a party defendant. Upon failure to state such facts the complaint shall be dismissed as to the people of the state of New York or the city of New York.

§ 386. Pleading transfer of tax lien. Whenever a cause of action, defense or counterclaim is for the foreclosure of a tax lien, or is in any manner founded upon a tax lien or a transfer of tax lien, the production in evidence of an instrument executed by the collector of assessments and arrears, in the form herein prescribed for a transfer of tax lien, shall be presumptive evidence that the lien purported to be transferred by such instrument was a valid and enforceable lien, and that it has been duly transferred or assigned to the purchaser or holder, and it shall not be necessary to plead or prove any act, proceeding, notice or action, preceding the delivery of such transfer of tax lien nor to establish the validity of the tax lien transferred by such transfer of tax lien. If a party or person in interest in any such action



or proceeding claim that a tax lien is irregular, unenforceable or invalid, or that there is any defect therein or that a transfer or assignment of tax lien is irregular, unenforceable, invalid or defective, such invalidity, unenforceability, irregularity or defect must be specifically pleaded or set forth, and must be established affirmatively by the party or person pleading or setting forth the same.

§ 387. Presumption of validity of tax lien. In every action for the foreclosure of a tax lien, and in every action or proceeding in which a cause of action, defense or counterclaim is founded upon a tax lien or a transfer of tax lien, such transfer of tax lien and the tax lien which it transfers shall be presumed to be regular and valid and effectual to transfer to the purchaser named therein a valid and enforceable tax lien. Unless in such action or proceeding such tax lien or transfer of tax lien be found to be invalid or unenforceable, it shall be adjudged to be enforceable and valid for the amount thereof and the interest to which the holder may be entitled.

§ 388. Judgment of foreclosure of tax lien. In an action to foreclose a tax lien, the plaintiff, unless the defendant obtain judgment, shall be entitled to a judgment adjudging the validity and enforceability of the tax lien, and of the transfer of tax lien, to the extent to which such lien or transfer thereof shall be determined to be valid and enforceable, and directing the sale of the real property affected thereby, or such part thereof as shall be sufficient to discharge the tax lien or such items thereof as shall be adjudged valid and enforceable, and the interest thereon and all other taxes, assessments and water rents which have become liens affecting the real property, together with the expenses of the sale, and the costs of the action.

§ 389. Effect of judgment foreclosing tax lien. Every final judgment in an action to foreclose a tax lien shall be binding upon, and every conveyance upon a sale pursuant thereto shall transfer to and vest in the purchaser all the right, title, interest and estate in and claim upon the real property affected by such judgment, of the plaintiff, each defendant upon whom the summons and complaint are duly served, each person claiming from, through or under such a defendant by title accruing after the filing of notice of pendency of the action or after the entry of judgment and filing of the judgment-roll in the proper county clerk's office, and each person not in being when the judgment

is rendered, who afterward may become entitled to a beneficial interest attaching to, or an estate or interest in such real property or any portion thereof, provided that the person presumptively entitled to such beneficial interest, estate or interest is a party to such action or bound by such judgment. So much of section four hundred and forty-five of the civil code as requires the court to allow a defendant to defend an action after final judgment shall not apply to an action to foreclose a tax lien. Delivery of the possession of real property affected by a judgment to foreclose a tax lien may be compelled in the manner prescribed in section sixteen hundred and seventy-five of the civil code.

§ 390. Disposition of surplus. Any surplus of the proceeds of the sale, after paying the expenses of the sale, and all taxes, assessments and water rents, which became a lien on and after the day mentioned in the advertisement of the sale as stated therein, under which the transfer of the foreclosed tax lien was issued, and satisfying the amount of the tax lien or such items thereof as shall be adjudged valid and enforceable and interest and the costs of the action, must be paid into court, for the use of the person or persons entitled thereto. If any part of the surplus remain in court for the period of three months, and no application therefor be pending, the court must, and, if an application therefor be pending, may, direct such surplus to be invested, at interest, for the benefit of the person or persons entitled thereto, to be paid upon the direction of the court.

§ 391. Procedure if no bid for tax lien be received. If no bid be received for a tax lien on real property at a duly advertised sale and it appear to the chamberlain that the taxes, assessments, water rents, penalties, accrued interest and charges amount to so large a proportion of the value of the property that the security is insufficient to attract bidders, the chamberlain and the corporation counsel shall investigate the facts and may fix a lesser amount for which, in their judgment, a tax lien bearing twelve per centum interest can be sold. A certificate in writing, signed by them, shall be filed with the collector of assessments and arrears, setting forth the amount so fixed by them, together with a brief statement of the reasons for such reduction, which certificate shall state the total amount of the taxes, assessments, water rents, penalties and accrued interest, the assessed value of such parcel of real estate, and the value of the land as the same appears on the last preceding

tax-roll. Thereafter such reduced amount shall constitute the tax lien upon said real property for the items therein enumerated, unless the same be increased as hereinafter provided, which reduced amount shall bear interest at the rate of twelve per centum per annum from the date of such certificate until fully paid, or until the tax lien thus fixed, together with the lien for any other taxes, assessments, water rents and penalties and interest becoming liens thereafter be sold. The collector of assessments and arrears shall thereafter advertise the tax lien for such reduced amount for sale to the highest bidder in the manner provided for the advertisement for the sale of ordinary tax liens. Such tax lien shall bear interest at twelve per centum and shall be sold to the person bidding the highest amount of money in excess of the reduced amount so fixed by the chamberlain and corporation counsel, provided, that if the bidding reaches the original amount of the tax lien on the real property affected, together with all interest and penalties thereon, the sale shall proceed in the manner provided for the sale of a tax lien as if no reduction had been made; if such tax lien be sold for a sum greater than the reduced amount fixed as aforesaid with the interest and penalties thereon, then such greater amount shall be considered the tax lien upon the real property affected thereby. If no bid be received at such sale, the chamberlain and corporation counsel shall reconsider their determination and may file a new certificate in the manner hereinbefore provided, and the collector of assessments and arrears shall proceed again as hereinbefore directed. Such procedure shall be repeated until a tax lien for such taxes, assessments, water rents and accrued interest be sold.

§ 392. Reimbursement for invalid, defective or ineffectual tax liens or transfers of tax liens. If a transfer of tax lien be vacated or be set aside or canceled by order of the court, or upon the recommendation of the corporation counsel, with the approval of the chamberlain, or if it be adjudged in any action that a transfer of tax lien is invalid, defective, ineffectual or not sufficient to transfer a tax lien to the purchaser thereof, or if in an action to foreclose a tax lien it be adjudged that the entire tax lien is void and not a valid lien on the premises which it purports to affect, and that the complaint be dismissed, the purchaser may surrender such transfer of tax lien, together with a certified copy of such order, judgment or decree, to the collector of assessments and arrears and thereupon shall be repaid by the city the amount paid

for such transfer of tax lien, with interest from the time of such payment at the rate set forth in the transfer of tax lien, and the city shall pay the taxed costs and disbursements of any action or proceeding in which such adjudication is made, or if no adjudication shall have been made, the disbursements actually and necessarily incurred by the holder of the transfer of tax lien in the effort to enforce the lien, which might have been taxed had he obtained judgment.

§ 393. Reimbursement when part of tax lien is invalid, defective or ineffectual. If the corporation counsel recommend and the chamberlain approve, or if, in an action to foreclose a tax lien, it be adjudged that one or more, but not all of the items constituting the tax lien are void, defective or ineffectual and not a valid lien on the real property affected by such tax lien, or if in any action or proceeding it be adjudged by the court that a transfer of tax lien is invalid or defective, as to one or more though not as to all, of the items transferred, the holder of the transfer of tax lien, by instrument in writing duly acknowledged, shall transfer to the city such void, defective or ineffectual items, and shall be repaid by the city such portion of the amount paid for such transfer of tax lien as may be applicable to such items, with interest from the time of such payment at the rate set forth in the transfer of tax lien, and the city shall pay the taxed costs and disbursements of any action or proceeding, other than an action to foreclose the tax lien, in which such adjudication is made. The provisions of this section shall not apply to a tax lien which has been reduced by the chamberlain and the corporation counsel where no bid is received as hereinbefore provided, unless by such an adjudication or recommendation the amount of the tax lien which shall remain valid and enforceable be less than the sum bid for the same and the interest thereon at the rate to which the holder of the transfer of tax lien is entitled; and the amount repaid by the city shall not exceed the difference between the amount of the tax lien which shall remain valid and enforceable, and the sum paid therefor, with interest thereon at the rate to which the holder of the transfer of tax lien is entitled.

§ 394. Persons interested may question transfer of tax liens; examination by corporation counsel. Any person, including owners, the city, holders of transfers of tax liens or others interested in or holding a lien upon any real property affected by any unpaid tax lien or transfer of tax lien, may file a written notice

with the collector of assessments and arrears claiming that a transfer of tax lien is invalid or defective or that a tax lien which has been transferred pursuant to this title or which is advertised to be transferred is invalid, defective, void or ineffectual, or should be vacated or set aside. The collector of assessments and arrears shall transmit all such notices to the corporation counsel, who shall examine into the facts and proceedings resulting in the tax lien or transfer of tax lien mentioned in such notice; before a determination is had the corporation counsel shall, unless the same be waived, serve a copy of such notice upon the holder, if any, of the transfer of tax lien thus questioned or which transfers the items thus questioned and shall give such holder an opportunity to be heard. The corporation counsel shall certify in writing his opinion upon the matters and questions raised by such notice, and if he conclude that a defense in an action to foreclose the tax lien would succeed in whole or in part or that the best interests of the city would be served by taking action with respect to the tax lien, he shall so certify, and shall recommend what action be taken by the city concerning the same. If a tax lien have not been sold and the corporation counsel conclude that such defense would succeed as to one or more items, but not as to all, or that any relief should be granted in the interest of the city, he shall so certify and recommend what action be taken, and, with the approval of the chamberlain, the tax lien may be reduced by the amount of such items, and as so reduced be sold or such disposition made of the tax lien as may be so recommended and approved. If the corporation counsel conclude that such defense would succeed in whole or in part, or that any relief should be granted in the interest of the city, and recommend repayment by the city of the amount paid for a transfer of tax lien which would be applicable to any item, he shall state the reasons for such recommendation, and if it be approved by the chamberlain the city shall require the surrender of the transfer of tax lien or the retransfer to it of the item or items of tax lien which are found to be void, unenforceable, defective or questionable, and shall make repayment therefor as hereinbefore provided. Neither the provisions of this section nor any act or proceeding thereunder shall impair or affect the rights or remedies of any person interested in, or holding any lien upon, real property to question the validity of any tax, assessment, water rents or tax lien, or any part or item of any tax lien.

§ 395. Foreclosed tax lien not to be included as "arrears." Any party to an action to foreclose a tax lien or any purchaser or any party in interest may give notice of such foreclosure to the collector of assessments and arrears, and, after due notice, the items which constituted the tax lien thus foreclosed shall not be entered by the collector in any yearly tax-roll, so long as the judgment of foreclosure of such lien remains in force.

§ 396. Corporation counsel to protect interests of city. No claim shall be made against the city for reimbursement of moneys paid for a transfer of a tax lien by the holder thereof, unless action to foreclose the tax lien upon which such claim is founded be commenced within five years from the time of the sale resulting in such transfer of tax lien. Nor shall any such claim be made unless within ten days after the commencement of any action or proceeding to vacate, set aside or cancel a transfer of tax lien, or a tax lien or an item mentioned in a transfer of tax lien; or unless within ten days after the service of any pleading or other paper in an action or proceeding in which any transfer of tax lien, or item mentioned in a transfer of tax lien, is brought into question, sought to be set aside, vacated or canceled, or which sets forth or pleads any defense to an action to foreclose a tax lien, a notice in writing be served upon the corporation counsel setting forth the question or objection raised to the best knowledge of the holder of the transfer of tax lien or his attorney-at-law, and demanding that the city assume the prosecution or defense of the action or proceeding. All proceedings in such action or proceeding shall thereupon be stayed for thirty days or such shorter time as the corporation counsel stipulate in writing. The corporation counsel shall examine the question raised, and, in order to protect the interests of the city, shall have the right to appear or to be substituted for the attorney of record of the holder of the transfer of tax lien, or to appear as attorney of record for the holder of any such transfer of tax lien, to conduct or defend any such action or proceeding in the name of the holder of the transfer of tax lien, and to bring any other action or proceeding for, in behalf of and in the name of the holder of such transfer of tax lien as he may deem advisable, to take appeals and to argue appeals taken by the adverse party, as he may deem advisable, but he shall not be required to continue as attorney after final determination of the question raised. The corporation counsel shall protect the interest of the city in all matters, actions and proceedings relating to tax liens and transfers of tax

liens; intervene in behalf of the city or of the holder of a transfer of tax lien in, or make the city a party to any action in which he believes it to be to the interest of the city so to do, by reason of any matter arising under or relating to a tax lien, or transfer of tax lien, or advertisement of sale of tax liens. In any action or proceeding in which the corporation counsel pursuant to this section shall be substituted, or shall appear, it shall be without expense to the holder of the transfer of tax lien, and all costs during the period of such defense or appearance recovered in behalf of such holder of a transfer of tax lien, in any action or proceeding conducted or defended by the corporation counsel or in which he shall appear after such notice, shall belong to the city and shall be collected, applied and disposed of in the same manner as are other costs recovered by the city.

§ 397. Defective or invalid tax lien or transfer; new sale. If a transfer of tax lien be vacated or be set aside or canceled or if it be adjudged that a transfer of tax lien is invalid or defective, or insufficient to transfer a tax lien to the purchaser thereof, or if in any action to foreclose a tax lien, it be adjudged that a tax lien is not a valid or enforceable lien on the premises which it purports to affect, because of some irregularity in the proceedings had, or otherwise, and if, in pursuance of any such adjudication the purchaser of said transfer of tax lien shall have surrendered such transfer of tax lien to the collector of assessments and arrears and shall have been repaid by the city the amount paid for such transfer of tax lien, with interest and the taxed costs and disbursements of the action or proceeding in which such adjudication was made, the tax lien which was purported to be transferred and assigned in such transfer of tax lien shall remain as a valid lien upon the property which it affects, except to such extent as it may have been adjudged irregular or invalid, and the collector of assessments and arrears may proceed to sell anew so much of the tax lien as is not invalid as if no prior sale purporting to transfer the tax lien had taken place.

§ 398. Lost transfer of tax lien; duplicate. When a transfer of tax lien given by the collector of assessments and arrears be lost, the chamberlain may receive evidence of such loss, and on satisfactory proof of the fact may direct the collector of assessments and arrears to execute and deliver a duplicate to such person or persons as appear entitled thereto, and may also, in his discretion, require a bond of indemnity to the city.

§ 399. Apportionment of tax liens and transfers of tax liens. When it appear to the satisfaction of the collector of assessments and arrears that subsequent to the preparation of an advertisement of tax liens to be sold, the tax maps of the city have been altered in accordance with deeds executed and recorded prior to the date of sale so as to show divided ownership and a change in the dimensions of any real property as described in such advertisement, he may, with the approval of the chamberlain, before or after the sale, upon the written request of the owner or owners of any of the divided portions thereof, if made before the filing with the collector of notice of the institution of foreclosure proceedings, duly apportion the said liens or transfers of tax liens. If such apportionment be made before sale and one or more of the apportioned amounts be paid, the lien for the remaining amount or amounts affecting the portion or portions of the property may be sold upon notice published in the City Record once a week for two weeks. If such apportionment be made after sale the owner or owners of any of the apportioned parts of the property may, at any time before the filing with the collector of notice of the institution of foreclosure proceedings, redeem such portions of the property from such sale in the same manner as if the apportioned amounts had been sold separately and affected solely the several apportioned parcels to which they have been set off. A certificate of redemption, executed and acknowledged by the collector, shall operate as a release of the property so redeemed from the lien of the transfer of tax lien. The holder of the transfer of tax lien so apportioned shall have the same rights and remedies as to the part of the apportioned lien remaining unpaid, as he would have had if the sale had related solely to such portion of the original lien; or he may make application for surrender of the lien to the city and refund of the amount of the apportioned lien with interest at the rate bid, and upon recommendation of the corporation counsel and the approval of the chamberlain, such application may be granted and the apportioned lien unpaid be thereafter sold upon new advertisement.

## CHAPTER X.

### TAX DEPARTMENT.

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411. Subordinates; real and personal property defined.



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Section 410. Tax board; how constituted; office in each borough. The head of the department shall be the tax board. The board shall consist of seven tax commissioners, one of whom shall be designated in his appointment as president and one of whom shall be an attorney and counselor-at-law of not less than five years' standing. Not more than five commissioners shall be members of the same political party. The department shall maintain an office in each borough of the city.

§ 411. Subordinates; real and personal property defined. The board shall appoint a secretary, an assistant secretary, an assist-

ant tax commissioner, and such number of deputies as it determine. In appointing deputies the board shall apportion them, as nearly as practicable, among the several boroughs according to population. No person shall be appointed a deputy unless, at the time of his appointment, he be, and for at least one year prior thereto shall have been, a resident of the borough from which appointed. Each deputy shall, under the direction of the board, between the first day of April and the succeeding first day of October in each year assess all the property in the district assigned to him by the board and shall certify to the board, under oath, that he has examined each separately assessed parcel of real property, and stated both its full value including every right, title, interest and estate therein and the value appraised as if it were wholly unimproved, in accordance with his best judgment, and shall furnish the board all other information relative to real or personal property in the city as the board may require. The terms real property and personal property as used in this chapter mean real property and personal property as defined by the tax law.

§ 412. Duties of department. The department shall:

1. Assess all taxable property at its full value, except as otherwise provided by law.

2. Make assessment-rolls for each year and preserve the same;

3. Make and complete before the first day of October in each year, but subject to correction and addition, the entry of all assessments for the succeeding year, except assessments of special franchises and of shares of stock of banks and banking associations;

4. Make and complete before the first day of December in each year, the entry of assessments for the succeeding year of shares of stock of banks and banking associations, subject to correction and addition;

5. Enter in February in each year upon the assessment-rolls assessments of special franchises for that year, a statement of which is filed with the department by the state board of tax commissioners.

§ 413. Right of entry. The department may by its officers and employees and others acting in its behalf enter upon real property and into buildings and structures, at all reasonable times, to ascertain the value of the property.

§ 414. Taxable status to be fixed as of October first. The taxable status of all persons and property assessable for taxation

in the city shall be fixed for each year as of the first day of October of the year prior to the year of levy; but this provision shall not affect the taxable status of a person whose taxable status shall have been fixed in another tax district of the state on the next preceding first day of July.

§ 415. Tax maps. The department shall maintain maps showing each separately assessed parcel of real property. Each separately assessed parcel shall be indicated either by a parcel number or by an identification number. Parcel numbers shall designate each parcel by the use of three or more numbers, of which one shall be a section or ward number, another a block, district or plot number, and another a lot number.

The parcel numbering upon the tax maps shall be in such sequence as the tax department determine.

Each separately assessed parcel indicated by an identification number shall be shown by a separate map, or by a description or by a map and description. A separate identification number shall be entered upon the tax maps in such manner as clearly to indicate each separately assessed parcel of real property not indicated by parcel numbering. Real property indicated by a single identification number shall be deemed to be a separately assessed parcel.

The department may maintain as tax maps the maps established or maintained by law so far as the same apply. The tax maps may be altered by the department except as otherwise provided by law.

§ 416. Tax surveyor. The department shall appoint a surveyor from the city surveyors, who shall make necessary surveys and corrections of maps and new maps required for more accurate assessment.

§ 417. Maps showing unit of value of land. During the month of March the department shall furnish to the board of City Record for publication maps of the city showing the unit values of land upon which the assessed valuation of real property was based in the assessments for the year. Such maps shall be public records. The scale of such maps and the manner of exhibiting the unit values shall be determined by the tax board. Such maps shall be published and sold as supplements to the City Record, unless the tax department otherwise provide for their publication, distribution and sale.

§ 418. Assessment of real property. The assessment of real property shall be made by entering upon the assessment-roll:

1. A description of the property reasonably sufficient for its identification;

2. The name of the owner, if known;

3. A statement of its assessed value. There shall be added to the assessment of real property by parcel numbering or by identification number a statement, which shall not be deemed to be a part of the assessment, showing the value of the land appraised as if unimproved. An entry by parcel numbering, or an entry of an identification number of real property thereby indicated or described upon the tax maps, shall be deemed to incorporate into the assessment-roll the entire corresponding indication of location and description shown upon the tax maps by the reference. No assessment of a separately assessed parcel of real property shall be deemed to be erroneous, excessive or illegal because of any division of right to or title, interest or estate in or ownership of the property assessed.

§ 419. Assessments of real property, how entered. Assessments of real property may be entered upon the assessment-roll in the numerical order of parcel numbering in each borough and an omission of the name of the owner in the assessment of property so entered, or an error in the assessment of his name, shall not affect the validity of the assessment. Assessments of real property, if not so entered, may be entered upon the assessment-roll under the names of the owners of the real property, arranged alphabetically, and no error in the name shall render such assessment invalid, provided that the real property be sufficiently described to reasonably identify and indicate to a person familiar with the same the particular property which it was intended to assess. The department may enter the assessment of any real property either by parcel numbering or by the name of the owner. The assessment-roll for real property may be divided into parts, for the purpose of separating the assessments entered by parcel numbering from the assessments entered by name, and also for the purpose of separating the assessments of real property situated in different boroughs. Each part may consist of one or more books as the tax department determine.

§ 420. Reports of banks and banking associations; assessment of bank shares. The reports or statements, under oath, required by the tax law to be furnished to the department by banks and

banking associations in the city for purposes of assessing for each year the shares of stock therein of their shareholders shall be furnished prior to the first day of November of the preceding year, and shall show their condition respectively on the first day of October in the preceding year. Assessments for taxation of shares of stock of banks or banking associations taxable in the city shall for each year be made as of the first day of October of the preceding year, and be entered upon the assessment-roll of assessment of bank shares of each year prior to the first day of December of the preceding year. No notice of such assessments or of completion or final completion or filing of the assessment-roll or of hearing, other than this act, shall be required. Applications to reduce or cancel such assessments may be made and hearings had thereon between the first day and the thirty-first day of December; but all such applications shall be in writing, under oath, in the manner and upon the grounds stated in the tax law. Assessments of bank shares may be reduced, canceled, increased or added at the times and upon notice as provided herein for other personal property assessments. The assessment-roll need not be verified or filed but shall remain in the office of the department. Each statement of assessment of bank shares and tax thereon, at the rate of one per centum, mailed or given to banks or banking associations by the department, shall be mailed or given on or prior to the twenty-eighth day of March in each year and every bank and banking association shall collect all such taxes due upon the shares of stock therein from the several owners of such shares and pay the same to the receiver of taxes on or before the first day of November in each year, under the penalties and provisions stated in the tax law. In case of neglect or refusal on the part of any bank or banking association to report as herein prescribed or to make other reports as may be required, such bank or banking association shall forfeit the sum of one hundred dollars for each failure and the additional sum of ten dollars for each day such failure continue and an action therefor may be prosecuted by the city; and an action may also be prosecuted by the city to recover from any bank or banking association for failure to pay such taxes on or before November first as herein provided, the penalty stated in the tax law of the gross amount of the taxes due from all the owners of the shares of stock and the additional amount of one hundred dollars for every day of delay in the payment of said taxes. Provisions of the tax law respecting the

assessment and taxation of bank shares not in conflict with this act shall apply to assessment and taxation of shares of stock of banks and banking associations.

§ 421. Assessment-roll of personal property. An assessment of personal property shall be made by entering upon the assessment-roll (1) the name of the owner; (2) the amount of the assessment. Names of owners shall be arranged alphabetically. Only a substantial error in the name of the owner shall render an assessment invalid. The assessment-roll of personal property may be divided into parts for the purpose of separating the assessments as between different classes of personal property, and also for the purpose of separating the assessments of personal property as between residents of different boroughs. Each part may consist of one or more books as the tax department determine.

§ 422. Annual assessment-roll, what it consists of; rolls in each borough. The assessment-roll for each year shall consist of all books containing entries of assessments for the year made by the tax department. Each book of the assessment-roll shall be signed and verified by a deputy commissioner and, except as herein provided, all matters respecting the form of the assessment-roll and the entry of assessments thereon shall be in the discretion of the department. All books of the assessment-roll for each borough shall be kept at the office of the department in such borough.

§ 423. Assessment-rolls to be open to inspection. The assessment-roll for the succeeding year shall be open to public inspection as follows: The assessment-roll for real property shall be open between the first day of October and the fifteenth day of November, both inclusive, in each year; the assessment-roll for personal property, excepting assessments of bank shares, shall be open between the first day of October and the thirtieth day of November, both inclusive, in each year; the assessment-roll for assessments of bank shares shall be open between the first day and the thirty-first day of December, both inclusive, in each year; and all assessment-rolls shall also be open during the month of March following in each year, at such reasonable hours of each day except Sundays and public holidays, and under such reasonable regulations as the department determine.

§ 424. Apportionment of assessments after first day of October; notice. When, prior to the first day of February following

the opening of the assessment-rolls, any separately assessed parcel of real property shall have been divided, the department on or before that date may apportion the assessment thereof in such manner as it deem to be just and equitable, and forthwith cause the assessment to be canceled and new assessments to be entered on the proper book or roll, and within five days thereafter cause written notice of the new assessments to be mailed to each owner of record of the real property so assessed at his last known residence or business address and an affidavit of the mailing of such notice to be filed in the main office. When such notice is mailed after the first day of November following the opening of the assessment-rolls such owners may apply for correction of such assessments within twenty days after the mailing of the notice with the same force and effect as if such application were made on or before the fifteenth day of November in any year. The department may apportion an assessment as between separate and divided ownership in the property to which the assessment relates. Such apportionment may be made only upon the written application of a party in interest. An apportionment shall be evidenced by a certificate thereof signed by the secretary of the department. The officer having custody of the book of the tax-roll in which the tax upon an apportioned assessment is entered shall, upon receipt of a certificate of the apportionment, divide the tax and any interest or penalty thereon proportionately to the division of the assessment, and note the apportionment on the book in connection with the entry of the tax. Each apportioned interest in the property taxed shall thereafter be subject only to the lien of the corresponding portion of the tax and interest.

§ 425. When department may reduce, cancel or increase assessments. The department may reduce or cancel, or may increase any assessment except an assessment on special franchises at any time prior to the twentieth day of February in the year following the opening of the assessment-rolls. No assessment shall be increased nor shall any change be made in a name or description, except upon notice in writing to the party in interest, given prior to the first day of February and an opportunity to be heard.

§ 426. Applications to reduce or cancel assessments. An application to reduce or cancel an assessment must be made by a person interested in the property assessed, and be presented at the office of the department in which is kept the book containing the assessment complained of, and

(a) If the assessment be of real property,

1. Be in writing and verified, and state the applicant's address;
2. Be made separately for each parcel assessed, provided, however, that all parcels owned by the applicant and contiguous or separated only by streets may be included in one application;
3. When on the ground of overvaluation, state the value of each separately assessed parcel;
4. When on the ground of inequality, state the facts claimed to constitute the inequality;
5. When on the ground of illegality, state the facts claimed to render the assessment illegal.

(b) If the assessment be of a corporation for personal property the application must

1. Be in writing and verified and state the applicant's address;
2. State all matters relied on to secure a reduction or cancellation;
3. When on the ground of overvaluation, state the value of the property;
4. When on the ground of illegality, state the facts claimed to render the assessment illegal.

(c) If the assessment be of a natural person for personal property, other than bank shares, the applicant must personally appear and be examined on oath, if he be within the state and not prevented by illness from attending.

(d) Such applications must be made between the first day of October and the fifteenth day of November following, both inclusive, as to real estate and between the first day of October and the thirtieth day of November following, both inclusive, as to personal property other than bank shares, and as to bank share assessments, between the first day and the thirty-first day of December, when the books are open, or within ten days after notice of an alteration of the assessment or of an added assessment.

(e) The department may prescribe general forms of applications and require information in addition to the matters herein stated.

§ 427. Examination of applicants under oath. The department shall examine on oath each natural person who shall make application for correction of an assessment of personal property other than bank shares. The tax board or any person designated by it may take proof and testimony as to all matters relating to the correction, reduction or cancellation of assessments. The department may examine any other applicant, at any time prior to



the eighteenth day of February in the year following the opening of the assessment-rolls, upon at least five days' notice, given in writing, delivered at the address stated in the application. A notice thus given shall be conclusively deemed to have been received by the applicant at the time of delivery. If an applicant willfully neglect or refuse to attend or to be sworn or to answer any material question, he shall not be entitled to any correction of assessment.

§ 428. When assessments may be added to the assessment-roll. The department may, prior to the twentieth day of February, add any assessment to the assessment-roll for the year, provided notice thereof be given to the party in interest prior to the first day of February in such year and an opportunity be given to be heard after such notice. The yearly assessments of special franchises and of shares of stock of banks and banking associations entered in pursuance of law upon the assessment-roll after the first day of October of the preceding year shall not be deemed added assessments.

§ 429. Certification of assessment-rolls to board of aldermen; rate of taxation. The department shall before the first day of March send to the board of aldermen a certified statement of the aggregate amount of all assessed valuations, as corrected, of property on the books of the assessment-roll for such year, except the assessed valuations of shares of stock of banks and banking associations, also, with the same exception, the aggregate amount of the assessed valuations of property on the books of the **assessment-roll kept in each borough**; and the department shall before the twenty-first day of February in each year send to the comptroller a certified statement of the amount of taxes which will be levied upon stocks of banks and banking associations for said year. The comptroller shall, before the first day of March, send to the board of aldermen a certified statement of the amount necessary to be raised by taxation to meet the requirements of the budget in the city and each county and borough. The board of aldermen shall meet at noon on the first day of March, or if said day be a Sunday or a legal holiday, on the next succeeding day, and determine, except as to bank share assessments, the rate of taxation for all purposes in each borough for the year, and certify the rates so determined to the tax department within three days thereafter. In determining such rates the board of aldermen shall fix each rate in cents and hundredths of a cent upon each dollar of assessed valuation.

§ 430. Tax-roll and tax levy. The department shall, on or before the twenty-eighth day of March in each year, prepare a tax-roll which shall consist of a clear copy of the assessment-roll as corrected, divided as the assessment-roll is divided with additional columns in the books of real property assessments for "water rents" and "arrears" but, as to assessments of real property, omitting the column showing the value of the property unimproved. It shall compute the amount of tax upon each assessment upon the tax-roll at the rates certified by the board of aldermen, except upon assessments of shares of stocks of banks and banking associations, and upon such assessments as one per centum, and enter the proper tax upon the tax-roll opposite each assessment. In entering taxes fractions of a cent may be disregarded. After the completion of the tax-roll the city clerk shall procure the proper warrants signed only by the president of the board of aldermen and countersigned by the city clerk authorizing and requiring the chamberlain to collect the several sums therein mentioned according to law. Each book of the tax-roll shall be authenticated by a statement of the year for which it is made and by the written signature of at least one of the commissioners and be forthwith delivered to the receiver of taxes; and with the books of bank share tax shall also be delivered to the receiver certified copies of the statements of assessment of bank shares and tax mailed or given to the respective banks and banking associations. Such warrant, authentication and delivery of the tax-roll shall be the warrant for the collection of the taxes. The department, shall simultaneously with such delivery notify the comptroller of the amount of taxes that he may cause the proper sum to be charged to the chamberlain for collection.

§ 431. Taxes and water rents; payments of and liens for. All taxes upon personal property, except upon bank shares, and one-half of all taxes upon real property, in the year for which they are levied, and unpaid water rents entered upon the tax-roll shall be due and payable to the receiver of taxes on the first day of May and the taxes upon bank shares and the remaining and final one-half of taxes on real property shall be due and payable to the receiver on the first day of November. All such taxes and water rents shall be and become liens on the real property affected thereby on the respective days when they become due and payable as hereinbefore provided and shall remain such liens until paid and be preferred in payment to all other charges. The

second half of the tax on real property due on the first day of November may be paid on the first day of May or at any time thereafter, provided the first half shall have been paid or be paid at the same time. On such payments of the second half of said tax as may be made prior to the first day of November a discount shall be allowed at the rate of two per centum per annum, from the date of payment to the first day of November. If any tax on personal property other than bank shares or any water rent or the first one-half of any tax on real property remain unpaid on the first day of June after the date when it shall have become due and payable to him, the receiver of taxes shall charge, receive and collect interest upon the amount of such unpaid tax or water rent at the rate of seven per centum per annum, to be calculated from the day it became so due and payable, to the date of payment. If any tax on bank shares or the final half of any tax on real property remain unpaid on the first day of December after it shall have become due and payable to him, the receiver of taxes shall charge, receive and collect interest upon the amount of such unpaid tax at the rate of seven per centum per annum, to be calculated from the day on which it became due and payable, to the date of payment. All moneys paid to the receiver of taxes on account of interest due upon any tax, or part thereof, or upon any water rent, shall be accounted for and paid over by him as items of his tax collections.

§ 432. Remission or reduction of taxes. The board by a majority vote may remit in whole or in part any tax (1) if it be upon real property where the tax, or any half or part thereof, has not been paid, provided the remission be made within one year from the first day of August of the year in which the tax shall have been levied; (2) on property other than real property, where the tax has not been paid, provided (a) the remission be in correction of a clerical error made by the tax department or (b) that the person aggrieved satisfy the board that illness or absence from the city prevented application for reduction or cancellation of the assessment within the time allowed by this act, and a case for such reduction or cancellation is established. A remission under this section shall be deemed to have been made when a certificate of remission shall have been signed by the secretary of the department. Upon receipt of any certificate of remission the officer having custody of the tax-roll upon which the remitted tax shall have been entered shall note such remission upon the roll and preserve the certificate. No decision of the board refusing in whole

or in part to remit a tax on application under this section shall be reviewable.

§ 433. What shall be deemed public notice of assessments for purposes of taxation. This act shall be deemed public notice of the imposition of all assessments for purposes of taxation, except assessments added to the assessment-roll in any year after the first day of October and of the times for making all applications for reduction or cancellation of assessments, and of the imposition of all taxes and interest charges, and of the times for payment of taxes and interest; and no other notice need be given either to the public or to any party interested in a tax or an assessment for taxation.

§ 434. Certiorari to review final determination of department. A certiorari to review or correct on the merits any assessment upon a completed assessment-roll other than assessments of special franchises shall be allowed by the supreme court or a justice thereof, directed to the tax commissioners or in the case of assessments of special franchises, directed to the state board of tax commissioners, on the verified petition of the party aggrieved, but only on the grounds, which must be specified in the petition, that the assessment is illegal, by reason of the particulars alleged, or is erroneous by reason of overvaluation, or in case of real property, that the same is erroneous by reason of inequality in that the assessment has been made at a higher proportionate valuation than the assessment of other real property on the assessment-roll of the borough in which the real property is located for the same year, specifying the instances in which such inequality exists, and the extent thereof, and stating that the petitioner is or will be injured thereby. Such certiorari and all proceedings thereunder shall be had and taken in the judicial district where the book of the assessment-roll is kept upon which is entered the assessment to be reviewed, including assessments on special franchises and assessments on bank shares, and may be begun only between the first day of March and the thirtieth day of June, both inclusive, in the year for which the assessment sought to be reviewed or corrected shall have been made. There shall be no reduction or cancellation of an assessment except on the ground that it is void for want of jurisdiction unless an application for correction shall have been made as herein provided. There shall be no reduction of an assessment upon the ground of overvaluation unless the value of the property assessed shall have been

stated in the application for correction, nor shall there be a reduction on that ground below the amount of such statement of value. There shall be no reduction of an assessment of improved real property upon the ground of overvaluation, unless the actual value of the land as improved be less than its assessed value. There shall be no reduction of an assessment upon the ground of inequality unless both the value of the property assessed and the ratio of assessment which the applicant claims to prevail shall have been stated in the application for correction, nor shall there be a reduction on that ground by applying a ratio less than the ratio claimed in the application. There shall be no reduction of an assessment of improved real property on the ground of inequality, except by applying the ratio of assessment found to the actual value of the land as improved. There shall be no reduction of an assessment upon the ground of illegality, except upon a ground claimed in the application for correction of the assessment or because the assessment was void for want of jurisdiction; nor shall there be any cancellation of an assessment on the ground of illegality when the assessment is illegal in part but in such cases there may be a reduction. The compensation of referees and necessary expenses and disbursements, including the services of experts and counsel in the proceedings to review assessments for taxation (excluding special franchise assessments) and upon any appeals therein, which may be a charge against the city, shall, when approved by a justice of the supreme court, be payable in the same manner as a judgment.

§ 435. Annual report to state comptroller. During the month of March in each year the department shall transmit by mail to the comptroller of the state a certificate of the aggregate valuation of real property, and the aggregate valuation of personal property, in each borough as such amounts appear from the ment-house department.

## CHAPTER XI.

### LAW DEPARTMENT.

Section 450. Corporation counsel.

451. Assistants to the corporation counsel.

452. Actions to be instituted by corporation counsel; restrictions as to condemnation proceedings.

453. Claims, actions and judgments; settlement of.

454. Examination of claimants.

455. Equitable claims against city; power to pay.

Section 456. Recovery of penalties; special powers of assistants in charge.

457. Counsel to tenement-house department.

458. Preparation of legal instruments.

459. Reports in street opening proceedings.

460. Officers and employees forbidden to have other counsel.

461. Fees not to be paid by department.

462. Verification of pleadings.

463. Satisfaction of judgments.

Section 450. Corporation counsel. The head of the department shall be the corporation counsel. He shall conduct all law business of, and be the attorney and counsel for the city and each county, and of all departments, boards, bodies, offices, officers and employees thereof, except as otherwise provided in this act or other statute. His communications and opinions to a department, board, body, office, officer or employee shall be privileged communications and shall not be used against the city in any action or proceeding.

§ 451. Assistants to the corporation counsel. The corporation counsel shall appoint a first assistant corporation counsel, who shall, during the absence or disability of the corporation counsel, possess all his powers and perform all his duties. In the event of a vacancy in the office of corporation counsel, the first assistant shall act as corporation counsel until the vacancy be filled. The corporation counsel shall also appoint seventy-five other assistants. Each assistant corporation counsel shall possess every power and perform every duty of corporation counsel, or such powers and duties as the corporation counsel may delegate by written authority for a designated period, not exceeding three months. Such written authority must be filed and remain on record in the department, and may be revoked. Neither the corporation counsel nor an assistant shall appear as attorney or counsel in any litigation, except in the discharge of his official duties, nor accept an appointment as referee or receiver in any action or proceeding. The corporation counsel may appear or direct an assistant to appear in any action or proceeding, criminal or civil, brought against any officer or employee by reason of an act done or omitted while in the performance of his duty, if such appearance be requested by the head of the department, office or bureau to which the officer or employee is attached.

§ 452. Actions to be instituted by corporation counsel; restriction as to condemnation proceedings. The corporation counsel, except as otherwise provided in this act, may institute actions and proceedings to maintain, defend and establish the rights, interests, revenues, property, privileges, franchises or demands of the city and of a county, or to collect money, debts, fines or penalties, or to enforce laws and ordinances; but he shall not institute a proceeding for acquiring title to real property by condemnation proceedings unless the same shall have been authorized by the board of estimate.

§ 453. Claims, actions and judgments; settlement of. The corporation counsel shall have exclusive jurisdiction of the investigation and settlement of all claims, actions and judgments by or against the city or a county, on account of the destruction of or injury to property or for personal injuries or death.

Where a claim is upon contract, express or implied, the claim and all the papers relating thereto shall be transmitted by the comptroller to the corporation counsel at the expiration of ten days after the service upon the comptroller of notice of intention to commence an action or proceeding thereupon. Thereafter the corporation counsel shall have exclusive jurisdiction of the investigation and settlement of the claim and of an action or proceeding brought thereon or judgment obtained therefor.

Settlement by the corporation counsel by payment, confession of judgment, acceptance of offer of judgment or otherwise of a claim, action, proceeding or judgment involving the payment of more than five thousand dollars by or to the city shall be subject to the written approval of the comptroller, and if the amount be more than ten thousand dollars, the written approval of the mayor shall also be necessary.

§ 454. Examination of claimants. The corporation counsel may require any person presenting a claim against the city, which the corporation counsel is authorized to adjust and settle, or any assignor of such claim, to be sworn and examined before him, or before an assistant as to any facts relative to the justness of such claim; and if the claim be based upon an alleged injury to the person, the corporation counsel may require the claimant to submit to a physical examination in respect of such injury by one or more physicians or surgeons, to be designated by the corporation counsel, and if the claimant to be examined be a female she shall be entitled to examination by a female physician or surgeon.

§ 455. Equitable claims against city; power to pay. The board

of estimate may, in its discretion, inquire into, hear and determine any claim against the city which has been certified to said board in writing by the corporation counsel as an illegal or invalid claim against the city but which, notwithstanding, in his judgment it is equitable and proper for the city to pay in whole or in part; and, if upon such inquiry the board by a unanimous vote determine that the city has received a benefit and is justly and equitably obligated to pay such claim and that the interests of the city will be best subserved by the payment or compromise thereof, it shall determine the amount to be paid in full satisfaction of such claim and shall direct the comptroller to issue a warrant for the payment thereof, upon the claimant fully releasing the city, in such form as shall be approved by the corporation counsel. This section shall not authorize the audit or payment of any claim barred by the statute of limitations, nor any claim for services performed under an appointment in violation of a provision of the civil service law. For the purpose of carrying out the provisions of this section, the comptroller shall issue and sell special revenue bonds.

§ 456. Recovery of penalties; special powers of assistants in charge. The corporation counsel may designate in writing one or more of his assistants to have charge of litigation for the recovery of penalties. All costs, commissions, fines, penalties or moneys received by him and assistant corporation counsel, from any source whatever, shall be paid over monthly to the city chamberlain and shall be accompanied by a sworn statement in respect thereof. Subject to the approval of the corporation counsel, an assistant having charge of litigation for the recovery of penalties may settle, compromise, adjust or discontinue, any action brought to recover a penalty.

§ 457. Counsel to tenement-house department. The corporation counsel shall assign an assistant to act as counsel to the tenement-house department.

§ 458. Preparation of legal instruments. The corporation counsel shall prepare, or approve as to form, all leases, deeds, contracts, bonds and other written legal instruments and papers of the city, and of each county, except as otherwise prescribed by law; provided, that the board of estimate may determine the forms of contract and specifications.

§ 459. Reports in street opening proceedings. The corporation counsel shall furnish to the board of estimate in each year, at the time of making the departmental estimate for the ensuing year, a



list of all reports in street opening proceedings confirmed during the preceding twelve months with a statement of the amount of awards and costs taxed in each proceeding.

§ 460. Officers and employees forbidden to have other counsel. No officer or employee shall have or employ any attorney or counsel in any action or proceeding to which the city or a county or such officer or employee in his official capacity is a party; but in an action or proceeding in which the final judgment or order may affect the personal rights, property or liberty of such officer or employee, the court, upon notice to the corporation counsel, may permit such officer or employee to employ and be represented by attorney or counsel at his own expense.

§ 461. Fees not to be paid by department. A city or county officer, or officer of a court exercising jurisdiction within the city, shall not charge the department a fee for entering, filing, docketing, registering or recording any paper, record or document, and shall, upon application, without fee, furnish the department with a certified copy, transcript or extract of any paper, document or record in his office.

§ 462. Verification of pleadings. The mayor, comptroller, corporation counsel or an acting corporation counsel may on behalf of the city, a county, or city or county department, board, body or officer verify a pleading.

§ 463. Satisfaction of judgments. A satisfaction piece or an assignment of a judgment in favor of the city or a county may be executed by the corporation counsel or an acting corporation counsel without regard to the time that has elapsed since the entry thereof.

## CHAPTER XII.

### ENGINEERING DEPARTMENT.

Section 470. City engineer; deputy; salary.

471. General powers and duties of city engineer.

472. Custodian of city map.

473. Standard forms of contract.

474. City engineer to mark boundaries.

475. Right of entry.

476. Consulting engineer.

Section 470. City engineer; deputy; salary. The head of the department shall be the city engineer, who shall be a civil engineer of not less than ten years' experience. He shall appoint a deputy.

§ 471. General powers and duties of city engineer. The city engineer shall be the engineer of the board of estimate and perform all of the duties the board, the mayor or the sinking fund commission may require of an engineer. He shall make such investigations, plans and estimates and perform such other duties in respect of public improvements as are prescribed in this act or the board or the mayor may require.

§ 472. Custodian of city map. The city engineer shall be the custodian of the city map and of such profiles as shall have been adopted by the board of estimate. He shall perform such other duties in relation to the city map as are prescribed in this act or the board may require.

§ 473. Standard forms of contract. The city engineer shall **prepare and submit** to the board of estimate standard forms of contracts for public work.

§ 474. City engineer to mark boundaries. The city engineer, when directed by the board of estimate, shall mark any boundary line of the city as said boundary line is determined in **this act**, so as to distinguish and define the boundaries of the city, the boundaries of the boroughs, and any other boundary line determined by law, by suitable monuments.

§ 475. Right of entry. It shall be lawful for the city engineer, and all persons acting under his authority, to enter in the daytime into and upon any real property and waters which he deem necessary to be surveyed, used or converted, for the laying out, surveying and monumenting of parks, streets, bridges, tunnels and approaches to bridges and tunnels, or for marking any boundary line.

§ 476. Consulting engineer. At the request of any head of department, board, body or office the city engineer shall act as consulting engineer in reference to any public work or improvement under the control or charge of such department, board, body or officer.

## CHAPTER XIII.

### DEPARTMENT OF EDUCATION.

Article 1. Board of education. (§§ 480-488.)

1. Board of education. (§§ 480-488.)

2. Local school boards. (§§ 500-503.)

3. Supervising and teaching staffs. (§§ 510-521.)

4. Teachers' retirement fund. (§§ 530-534.)

5. General and special provisions. (§§ 540-551.)

Article 6. College of the City of New York. (§§ 560-567.)

7. Hunter College of the city of New York. (§§ 575-581.)

## ARTICLE 1.

### BOARD OF EDUCATION.

Section 480. Jurisdiction of department; definitions.

481. Former board of education abolished; powers and duties of the board transferred.

482. Head of department; no separate corporate existence.

483. Commissioners of education; appointment, terms of office; salaries.

484. President of the board; powers and duties.

485. City succeeds to trusts of public school society.

486. Property under care and control of department.

487. Powers of board.

488. Administrative officers.

Section 480. Jurisdiction of department; definitions. The department of education shall have charge and control of the public schools and of the public school system of the city, subject to the provisions of this act and the education law. Wherever used in this chapter the word "schools" means public schools of the city; the words "the school system" the public school system of the city; the term "members of the teaching staff" includes all principals, heads of departments, assistants to principals, instructors in special branches, regular teachers and assistants; and the term "members of the supervising staff" includes members of the board of examiners and all officers or employees engaged in the supervision of the work of members of the teaching staff. "Regular teachers," within the meaning of this section, are all teachers other than substitutes, teachers in vacation schools, recreation centers and playgrounds and evening schools.

§ 481. Former board of education abolished; powers and duties of the board transferred. The board of education of the city of New York created by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, and the acts amendatory thereof, is abolished, to take effect on the first day of September, nineteen hundred and eleven, when the terms of office and the official functions of members of the board shall cease, and all actions and proceedings by or against said board then pending shall be continued by or against the city, which shall be sub-

stituted therein for said board. Except as otherwise provided in this act, all rights, powers, authority, trusts, duties and obligations vested in or imposed upon the board of education of the city of New York on the thirty-first day of August, nineteen hundred and eleven, shall be then vested in and imposed upon the department of education as constituted by this act.

§ 482. Head of department; no separate corporate existence. The head of the department shall be the board of education, which shall consist of seven members to be commissioners of education. The board shall not be or possess the powers or privileges of a corporation.

§ 483. Commissioners of education; appointment, terms of office; salaries. The mayor shall appoint the members of the board, of whom one shall be president and be so designated in his appointment. Their terms of office shall begin on the first day of September, nineteen hundred and eleven, and be as follows: The president, seven years, and the other members six, five, four, three, two years and one year, respectively, the term of each commissioner to be designated in his appointment. The appointment of the successor of any member shall be for a term of seven years, except an appointment to fill a vacancy which shall be for the remainder of the term. Three members shall be residents of either the borough of Manhattan or the Bronx, two of the borough of Brooklyn, one of the borough of Queens and one of the borough of Richmond. The salary of the president shall be ten thousand dollars a year and of each other commissioner nine thousand dollars a year.

§ 484. President of board; powers and duties. The president shall be the chief executive officer of the board and preside at its meetings.

§ 485. City succeeds to trust of public school society. All the trusts held by or vested in the public school society of the city of New York which have not been conveyed by the said society, and all the rights, powers and duties of said society shall continue and be vested in the city, which is and shall be the lawful successor of said society in the execution of its trusts.

§ 486. Property under care and control of department. All property, real and personal, now used for public educational purposes, including the hall of the board of education, and all property, real and personal, hereafter acquired for such purposes, shall be under the care and control of the department.

§ 487. Powers of board. The board of education shall have power

1. To establish, conduct, consolidate and discontinue schools or classes;

2. Upon the written recommendation of the board of superintendents to change grades and classes and adopt and modify courses of study;

3. To provide special day or evening classes in the English language for persons whose vocations prevent their attendance at other schools;

4. Upon the written recommendation of the board of superintendents to establish the kinds and grades of licenses for directors, inspectors and members of the teaching staff; and to prescribe the qualifications necessary to render an applicant eligible for examination by the board of examiners;

5. To maintain free lectures and courses of instruction;

6. Upon the written recommendation of the board of superintendents to approve and select text-books, apparatus and other supplies for use in the schools; subject to the condition that no book of which a member of the board or of the teaching or supervising staff, or an officer or employee is the author, or in the publication or sale of which he may be interested, shall be used in the public schools except when authorized by the vote of at least five members of the board;

7. To construct, equip, maintain, alter, repair and manage school buildings;

8. When authorized by the board of estimate to acquire or lease real property for school accommodations, including playgrounds, recreation centers and school farms;

9. To provide for and to equip, maintain and manage playgrounds, recreation centers and school farms;

10. To appoint and, subject to the approval of the board of estimate and the board of aldermen, fix the salaries of all officers and employees, including members of the supervising and teaching staffs;

11. To appoint janitors, and a supervisor of janitors, and to make rules and regulations for their guidance and discipline. Janitors may in the discretion of the board be called "custodians;"

12. Upon the written recommendation of the board of superintendents to transfer principals and teachers from one school to another, or from district to district within the same borough;

13. To declare vacant any position established under this chapter, or under the by-laws of the board of education, the incumbent of which shall have been absent without leave and without satisfactory explanation to such board;

14. To establish and maintain a bureau of school information, statistics, child study, hygiene and sanitation;

15. To enact by-laws, rules and regulations not inconsistent with law for the proper execution of all powers and duties and the transaction of all business of the department, the board, its members and committees and of the several local school boards; regulating and defining the respective duties of all officers and employees and of all members of the supervising and teaching staffs; regulating the manner of making disbursements from any fund apportioned to a borough for school purposes; and providing for the welfare of the school and school system. Until such by-laws, rules and regulations shall have been enacted, the by-laws, rules and regulations, now in force, not inconsistent with the provisions of law, shall continue as the by-laws, rules and regulations of the department;

16. To dispose of personal property no longer required for use; and sell at prevailing market prices such manufactured or other products of its vocational, trade, preparatory trade schools and truant schools, day or evening, not utilized by the board of education;

17. Assign each associate superintendent to perform duty connected with one kind or division of school work throughout the city.

§ 488. Administrative officers. The board shall appoint the following administrative officers: A secretary and an auditor to hold office at the pleasure of the board; also a chief clerk, a superintendent of school buildings, who shall be an architect of experience, and a superintendent of school supplies, for terms of six years, each of whom may be removed for cause and may be suspended with pay by the board or its president pending the trial of charges.

The secretary and the chief clerk may administer oaths as to matters pertaining to the schools and for such purpose shall possess the powers of commissioners of deeds, but shall not be entitled to any fees.

## ARTICLE 2.

### LOCAL SCHOOL BOARDS.

Section 500. Local school board districts.

501. Local school boards; members.

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Section 502. Organization of school boards; members serve without pay.

503. Powers and duties of local school boards.

Section 500. Local school board districts. The city shall be divided by the board on or before the first day of January, nineteen hundred and twelve, into forty-six local school board districts, of which twenty-two shall be wholly in the borough of Manhattan, fourteen wholly in the borough of Brooklyn, four wholly in the borough of the Bronx, four wholly in the borough of Queens and two wholly in the borough of Richmond. The districts shall be compact in form, and, as near as may be, of equal school attendance. Subject to such conditions, the board may every fifth year thereafter rearrange such districts within the borough. Upon the division of the several boroughs into such districts and upon any rearrangement thereof as above provided, the board shall file maps of the same, duly authenticated by its secretary, in the office of the mayor, and a duplicate of the map of each borough in the office of the president of the borough.

§ 501. Local school boards; members. There shall be in each district a local school board consisting of six members, as follows: A supervising officer of the school system, assigned to such district by the board, and five persons to be appointed by the president of the borough; when a borough shall have been divided into local school board districts, the borough president shall, within thirty days thereafter, appoint five members of each local school board for terms of one, two, three, four and five years from the first day of January next following the date of their appointment as designated therein. The successor of a member shall be appointed for a full term of five years by the borough president. A vacancy shall be filled by appointment for the unexpired term. Where boundaries of a local school board district shall be changed by a rearrangement, the board of education shall designate the new districts within which the local school boards appointed for districts affected by the rearrangement shall thereafter act. Members of local school boards, appointed by a borough president, may be removed by him in the manner provided for the removal of members of the board of education. The president of the board of education may designate a commissioner to attend meetings of a local school board. And the commissioner so designated shall have the same rights and powers at such meetings as a member of the local board.

§ 502. Organization of school boards; members serve without pay. All members of a local school board shall serve as such without pay, and, except the member of the supervising staff assigned thereto, shall be residents of the districts in and for which they are appointed. Any vacancy in a local school board shall be filled for the unexpired term by the borough president. A local school board shall meet not less than once in each month excepting in July and August.

§ 503. Powers and duties of local school boards. The local school boards shall, in their respective districts and subject to the provisions of this article and the by-laws, rules and regulations of the board of education:

1. Inspect all the schools in the district at least once in every month except in July and August;
2. Call the attention of the board of education, without delay, to every matter requiring official action;
3. Report immediately to the board of education whenever additional school accommodations are needed;
4. Report immediately to the board of education any dereliction of duty on the part of any officer or employee of the department, with the facts and circumstances in respect of such dereliction;
5. Have power to grant leave of absence to teachers, subject, however, to the approval of the board of superintendents;
6. Try and determine all matters relating to discipline, corporal punishment of pupils and other matters affecting the administration of the schools arising upon the complaint of pupils, parents or guardians against principals or teachers, and shall impose such penalties as may be prescribed by the by-laws of the board of education. For the purposes of this subdivision members of local school boards are empowered to administer oaths and to examine witnesses and take testimony. The determination of a local school board upon such charges and the penalty or punishment imposed therefor shall be reported immediately to the board of education, which may reject, confirm or modify the determination of the local board, and the penalty or punishment imposed. The decision of the board of education shall be final except as to matters in relation to which, under the education law, an appeal may be taken to the state commissioner of education;
7. Procure the enforcement of the law and the by-laws of the board of education relating to the sanitary condition of the schools and the health of the pupils;



8. Have power to transfer teachers from school to school within their respective districts, subject to the approval of the board of superintendents;

9. Report to the board of education, and to such officer of the department as the by-laws of the department shall require, all vacancies in the teaching force as soon as such vacancies occur;

10. Adopt by-laws regulating the exercise of all powers and duties vested in it consistent with the by-laws of the board of education;

11. Keep a record of the proceedings of the meetings of the board, which shall be open at all times to inspection by the board of education or a member thereof.

### ARTICLE 3.

#### SUPERVISING AND TEACHING STAFFS.

Section 510. Appointment of members of supervising staff.

511. Board of superintendents, supervising staff; qualifications.

512. Directors of special branches; qualifications.

513. City superintendent; rights and duties.

514. Disability or absence of city superintendent; main office.

515. Powers and duties of board of superintendents.

516. District superintendents; assignment and duties.

517. Appointments and promotions.

518. Nominations and appointments of members of teaching staff; resignations.

519. Teachers in the charities department and department of corrections.

520. Board of examiners; examinations; licenses to teach.

521. Discipline.

Section 510. Appointment of members of supervising staff. The board of education shall appoint for terms of six years the following members of the supervising staff: (a) A city superintendent of schools; (b) such number of associate superintendents of schools, district superintendents of schools, directors of special branches, assistant directors of special branches, and members of the board of examiners, as are herein provided; (c) a supervisor of lectures; (d) an assistant supervisor of lectures; (e) a super-

intendent of libraries. Appointments when authorized or directed by the board of education shall be by a majority vote of all members of the board. A vacancy in any such office or position shall be filled by appointment for a full term.

§ 511. Board of superintendents, supervising staff; qualifications. There shall be at least eight associate superintendents, who, with the city superintendent of schools as chairman, shall constitute the board of superintendents. There shall be not less than twenty-six district superintendents.

No person shall be eligible to the office of city superintendent, associate superintendent or district superintendent who has not one of the following qualifications: (a) A degree or diploma of graduation from a college or university recognized by the regents of the university of the state of New York, together with at least seven years of experience in the schools of the city in teaching or supervision since graduation; (b) a principal's certificate for a borough obtained as a result of examination, together with at least ten years' experience in supervision or teaching. This section shall not prevent the election as city superintendent, associate or district superintendent of a superintendent now in office.

§ 512. Directors of special branches; qualifications. No person shall be eligible for appointment as director of a special branch who is not: (a) A graduate of a college or university recognized by the regents of the state of New York; and (b) a graduate from a course of professional training of at least two years in the special branch that he is to supervise or teach; and (c) a teacher of that special branch with at least three years' experience in the city.

§ 513. City superintendent; rights and duties. The city superintendent shall have the right of visitation and inquiry in the schools under the control of the board of education. He shall submit to the board an annual report as to the condition of the schools and all matters relating to his office, and such plans and suggestions for the improvement of the schools and school system, and for the advancement of public instruction as the board direct. He shall enforce the compulsory education law, and direct attendance officers in their duties. He shall assign his clerks to duty, and may suspend them with or without pay for cause, and report such suspensions to the board. He shall report as often as the board direct upon any matter entrusted to his charge. He may call together the associate superintendents and district superintendents for consultation. The city super-

intendent shall report to the board each case of gross misconduct, insubordination, neglect of duty or inefficiency on the part of a member of the teaching or supervising staff. He may renew or make permanent, in accordance with the provisions of this act, temporary licenses issued by the board of examiners to members of the teaching staff, directors and inspectors. He shall perform such other duties as the board prescribe.

§ 514. Disability or absence of city superintendent; main office. During the disability or absence of the city superintendent, one of the associate superintendents shall be designated by the board to act in his place. The main office of the city superintendent shall be in the borough of Manhattan in a building selected by the board.

§ 515. Powers and duties of the board of superintendents. The board of superintendents shall

1. Nominate to the board for appointment, transfer and promotion, all directors and assistant directors of special branches, inspectors of special classes and school activities, and all members of the teaching staff.

2. Recommend courses of study for adoption by the board, and to recommend syllabi of the topics in the various branches to be taught.

3. Recommend to the board of education for adoption, textbooks, apparatus and other scholastic supplies.

4. Recommend to the board the kinds and grades of licenses for directors, inspectors and members of the teaching staff, and the qualifications to be required for each kind and grade of license.

5. Approve or disapprove the service of all directors, inspectors and members of the teaching staff.

6. Recommend to the board changes in the grades of schools and classes.

7. Meet as often and at such times as the board of education designate, but there shall be at least one meeting in each month of the year except July and August.

8. Perform such other duties as may be prescribed by the by-laws of the board of education.

§ 516. District superintendents, assignment and duties. District superintendents shall be assigned by the board of education to the work of supervision in the local school board districts in such manner that one district superintendent shall be assigned to such duty in two districts for the period of one school year. At the

end of such period the board of education may change such assignments. District superintendents when not assigned to such duty shall be assigned by the board of education to other duties.

Under the supervision and direction of the board of superintendents, district superintendents shall visit every school in the district to which they are assigned; inquire into all matters relating to the government, courses of study, methods of teaching, discipline, condition and conduct of such schools; examine classes; and advise, assist and encourage pupils and teachers. The district superintendents shall report the results of such inspections and examinations to the board of superintendents, to the local school boards in the district and to the board of education. Each district superintendent shall also report to the local school board within a district, and through the city superintendent to the board of education, any case of gross misconduct, neglect of duty, insubordination or general inefficiency arising in such district on the part of any principal or teacher or other member of the teaching staff within his jurisdiction.

The board of superintendents shall assign to the several school districts such teachers of special branches as the board of education appoint. The district superintendents shall assign teachers of special branches in the schools of the several districts to which they are appointed. Under the direction of the board of superintendents they shall examine the work in their several branches, report upon the same, and instruct special teachers and class teachers in the teaching of their several branches.

§ 517. Appointments and promotions. Appointments and promotions in the teaching staff and in the supervising staff shall be made according to merit and fitness to be ascertained, so far as practicable, by examination, which, so far as practicable, shall be competitive. Except as city, associate or district superintendent, member of the board of examiners, principal of a high school or training school for teachers, or as otherwise provided in this act, no person shall be appointed to a position on the supervising staff or teaching staff, or promoted to a position involving an increase of salary in either of such staffs whose name does not appear upon the appropriate competitive eligible list, certified by the board of examiners and who does not hold the license required for the office or position. Promotions and appointments shall be made in the regular order of the standing of the candidates on the appropriate eligible list; provided, however, the board of education may

consider for nomination for appointment the three persons whose names are highest on the appropriate list.

§ 518. Nomination and appointments of members of teaching staff; resignations. All members of the teaching staff shall be appointed by the board of education. Such appointments shall be made, except in the case of high schools or training schools for teachers, for the several local school board districts, and when so made the members of the teaching staff shall be assigned to duty in such schools to such positions as the board of superintendents determine. Where practicable, teachers shall be appointed for districts in the boroughs in which they reside. Members of the teaching staff may be promoted or transferred from one school to another school by the board of superintendents subject to the approval of the board of education; but a teacher shall not be transferred from a school in one borough to a school in another borough without his or her consent. For all purposes affecting the appointment, promotion or transfer of teachers in any school, the district superintendent assigned to the district in which the school is situated, the principal of such school and, in the case of transfer, the district superintendent and the principal of the school to which it is proposed to transfer a teacher, shall have seats in the board of superintendents, with votes on such propositions. In case of the consolidation of schools or the discontinuance of a school, each member of the teaching staff in good standing, deprived of employment, shall be preferred for appointment in any school of the city. Resignations of members of the teaching staff shall be made to the board of superintendents.

§ 519. Teachers in the charities department and department of correction. Teachers in schools or classes maintained in the institutions controlled by the charities department or department of correction shall be appointed by the commissioner of the appropriate department, upon the nomination of the city superintendent of schools and shall be licensed by the board of examiners of the department of education. The board of education through such representatives as it may designate shall maintain an effective visitation and inspection of such schools and classes.

§ 520. Board of examiners; examinations; licenses to teach. A board of examiners, consisting of not less than five, shall be appointed for terms of six years by the board of education. One member of the board of examiners shall be designated as chairman by the board of education. The board of examiners shall hold examinations at such times, as the board of education direct,

and examine applicants for licenses, and issue to those who pass the required tests such licenses as they are found entitled to receive. All licenses issued shall be temporary and issued in the name of the chairman of the board of examiners. Such licenses may be renewed, without examination, from year to year, for two successive years by the superintendent provided the service of the holder is satisfactory. After the close of the third year of continuous service the city superintendent of schools may make the license permanent. The board of education may employ assistants to the board of examiners temporarily. To be eligible for appointment as member of the board of examiners, an applicant must possess one of the following qualifications: (a) A degree or diploma of graduation from a college or university recognized by the regents of the university of the state of New York, together with at least seven years' experience in the schools of the city in teaching or supervision since graduation; (b) a principal's certificate for a borough obtained as a result of examination, together with at least ten years of experience in teaching. Hereafter neither the city superintendent of schools, nor an associate superintendent, nor a district superintendent, shall be allowed to serve on the board of examiners. The board of education on the recommendation of the board of superintendents shall designate the kinds or grades of licenses to teach which are used in the city, together with the academic and professional qualifications to be required for each kind or grade of license. The board of education, on the recommendation of the board of superintendents, shall also designate, subject to the like limitations, the academical and professional qualifications required for service of all members of the teaching and supervising staffs, subject to competitive examinations. The board of examiners shall prepare all necessary eligible lists, which shall be certified to the board of education and to the board of superintendents, and be kept in the office of the board of superintendents, and shall be open for inspection by members of the board of education, associate superintendents and district superintendents, principals and local school boards. Such eligible lists shall not be merged and one eligible list shall be exhausted or have expired by time limitation before nominations are made from a subsequent list; provided, however, that an eligible list shall remain in force for a period of not less than one year nor more than four years, except the principals eligible list, which shall remain in force until exhausted. A valid license to teach in

the city including a certificate issued by the state department of education is hereby continued, and shall, unless revoked for cause, be recognized by the board of examiners and the board of education as in full force and effect as herein provided. No teacher shall be appointed or promoted to the grades of the last two years of the elementary schools whose name does not appear on an eligible list for the grades of the said last two years prepared as the result of a competitive examination hereafter held. No present holder of a teacher's license number one, teacher's license number two, graduating class license, promotion license or grade "A" license shall be debarred on account of age from entering such examination. Authority to revoke any permanent license for cause shall be vested in the state commissioner of education.

§ 521. Discipline. A member of the board of education or a local school board or member thereof, or an associate superintendent or district superintendent, may prefer charges to the board of education against a member of the teaching or supervisory staff exercising powers in the schools under their charge, for gross misconduct, neglect of duty, insubordination or inefficiency. Pending trial, the board of education may suspend such member, with or without pay, and appoint a substitute. In accordance with by-laws of the board of education, a district superintendent may suspend a member of the teaching or supervisory staff exercising powers in the schools under their charge, report such suspension to the city superintendent, who shall immediately report it to the board of education. Pending action by the board of education, the city superintendent may appoint a substitute. The board of education, on receiving notice of such charges, shall try and determine the same, either in the board or by a member or members, and shall fix the penalty or punishment, if any, to be imposed for the offense, and such penalty or punishment shall consist of a fine, suspension for a fixed time without pay, or dismissal; provided, however, that a vote of five members of the board shall be necessary to impose the penalty of dismissal. The report of a member or members holding such trial shall be subject to final action by the board, which may reject, confirm or modify the same, and the decision of the board shall be final, except as to matters in relation to which, under the education law, an appeal may be taken to the state commissioner of education. If a member of the teaching or supervisory staff be not dismissed he shall be restored to his position with full pay for the period of suspension, less any

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deductions from any pay in fines. In all trials authorized by this chapter the board or a member or members conducting the trial may take proof and testimony.

#### ARTICLE 4.

##### TEACHERS' RETIREMENT FUND.

- Section** 530. Composition of fund; its management.  
 531. Retirement; annuities.  
 532. General provisions.  
 533. Exemption from execution.  
 534. Appropriation for clerical expenses of administration of fund.

**Section 530.** Composition of fund; its management. The general care and management of the public school teachers' retirement fund created for the former city of New York by chapter two hundred and ninety-six of the laws of eighteen hundred and ninety-four, and of the public school teachers' retirement fund created for the former city of Brooklyn, by chapter six hundred and fifty-six of the laws of eighteen hundred and ninety-five, is hereby continued in the board of education, and said funds, together with the funds, revenue and income specified in this section, shall constitute the public school teachers' retirement fund. The board of education shall establish rules and regulations for the administration of the fund, preserving all rights of the teachers of the city and the former city of Brooklyn, and make payments from the fund of annuities granted as provided in this act.

a. The comptroller shall hold and invest the fund, and by direction of the board of education pay out the same. He shall report in detail to the board in the month of January the condition of the fund and the receipts and disbursements on account of the same.

b. The retirement fund shall consist of the following, with the interest and income thereof: (1) All salary or compensation, forfeited, deducted, reserved or withheld from any member of the teaching or supervising staff of the public day schools of the city, or teachers of schools or classes maintained in institutions controlled by the charities department or of the department of correction, pursuant to rules established by the board of education, or by the commissioner of charities or the commissioner of correction for schools or classes maintained in such departments. The



auditor of the board of education, the commissioner of charities and the commissioner of correction shall each certify monthly to the comptroller the amounts forfeited, deducted, reserved or withheld during the preceding month. Such amount shall be turned into the retirement fund. (2) All moneys received from donations, legacies, gifts, bequests or otherwise for or on account of the fund. (3) An amount to be appropriated annually equal to five per centum of all moneys received during the next preceding calendar year into the city treasury from excise taxes for the business of trafficking in liquors. (4) One per centum of the salaries of all members of the teaching and supervising staffs of the public day schools, and teachers of schools or classes maintained in institutions controlled by the charities department or department of correction, except that the amount deducted from the salary of a teacher or principal shall not exceed thirty dollars in any one year, and the amount deducted from the salary of a supervising official shall not exceed forty dollars in any one year. The board of education, the commissioner of charities and the commissioner of correction shall deduct on each pay-roll of the teaching and supervising staffs one per centum from each amount earnable in the period covered by the pay-roll, and shall certify monthly to the comptroller the amounts so deducted; and such amounts shall be turned into the said retirement fund. All pay-roll deductions from the salary of a person dismissed from the service for cause, before becoming eligible for retirement, shall be refunded to such person upon dismissal. (5) All such other methods of increment as may be devised for the increase of the fund.

c. The permanent teachers' retirement fund now established or existing shall be retained for the purpose for which it was established. The unexpended balances of the income of the teachers' retirement fund for any year shall be added to the permanent fund. The comptroller shall invest the permanent fund, and the income thereof may be used for the payment of annuities, but if necessary the board of education may use any portion of the permanent fund in excess of eight hundred thousand dollars in the same manner as income.

d. The president of the board of education, two members of the board to be appointed by the president, the city superintendent of schools, and three members to be selected from the principals, assistants to principals and teachers of the public day schools shall

constitute a board of retirement. The three last-named members shall be chosen as follows: On the second Thursday of May the principals, assistants to principals and teachers in each district shall meet at the call of the district superintendent, which call he shall issue at least one week before said meeting, at a designated place within the district to select by ballot one of their number as district representative to serve for one year. At the close of said meeting, the presiding officer shall transmit to the secretary of the board of education the name and address of the district representative so chosen. The district representatives shall meet at four o'clock in the afternoon on the third Thursday of May at the hall of the board of education and choose by ballot one of their number to serve on the board of retirement for three years from the first day of the following June. Should a vacancy occur among the members of the board of retirement so chosen, the district representatives shall meet and choose by ballot one of their number to serve on the board of retirement for the unexpired term.

§ 531. Retirement; annuities. The board of education shall have power:

1. By a vote of at least four of its members, on the recommendation of the board of retirement, to retire any member of the teaching or supervising staff of the public day schools of the city, or teacher of schools or classes maintained in institutions controlled by the charities department or by the department of correction who is mentally or physically incapacitated for the performance of duty and who has been engaged in the work of teaching or of school or college supervision, or of examination of teachers for licenses, or any two or more of said kinds of work, for a period aggregating twenty years, fifteen of which shall have been in the public day schools in the city, or in schools or classes maintained in institutions controlled by the charities department or the department of correction;

2. To retire, without such recommendation, from active service any member of the teaching or supervising staff who shall have attained the age of sixty-five years and shall have been engaged in the work of teaching or school supervision for a period aggregating thirty years;

3. By a vote of at least four of its members, to retire upon his or her application any member of the teaching or supervising staff of the public day schools of the city, or teacher of schools or classes maintained in institutions controlled by the charities de-

partment or by the department of correction who shall have been engaged in the work of teaching or of school or college supervision, or of examination of teachers for licenses or any two or more of such kinds of work, for a period aggregating thirty years, fifteen of which shall have been in any of the said schools or institutions.

Upon such retirement, the person retired shall be entitled to receive an annuity out of the teachers' retirement fund of not less than one-half of the annual salary paid to such person at the date of retirement.

§ 532. General provisions. A person retired under the provisions of this act after thirty years of service shall receive as an annuity one-half the annual salary paid to the person at the date of retirement, not to exceed, however, in case of a teacher or principal the sum of fifteen hundred dollars, and in the case of a supervising officer two thousand dollars. An annuity of a person heretofore or hereafter retired after thirty years of service shall not be less than six hundred dollars. A person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of said person bears to thirty years. The annuities provided for shall be payable in monthly instalments. All retirements shall take effect either on the first day of February or on the first day of September. The number of persons retired in any one year shall be so limited that the entire amount of the annuities to be paid for that year shall not be in excess of the estimated amount of the retirement fund applicable to the payment of annuities for that year. The board of education may reinstate in active service, on his or her application, any person who has been retired. Upon such reinstatement the payment of the annuity of said person shall be discontinued.

§ 533. Exemption from execution. The moneys, securities and effects of the public school teachers' retirement fund, and all pensions or annuities granted and payable therefrom, shall be and are exempt from levy and sale by virtue of an execution and from all process and proceedings to enjoin payment or disposition of or to recover the same by or on behalf of any creditor or claimant against a beneficiary of the fund.

§ 534. Appropriation for clerical expenses. On the recommendation of the board of education, the comptroller may authorize

the expenditure from the public school teachers' retirement fund of a sum not exceeding fifteen hundred dollars in any one year for clerical and other expenses in connection with the administration of the fund, payments therefrom to be made on vouchers prepared and audited in the same manner as payments from other funds under the jurisdiction of the board of education.

## ARTICLE 5.

## GENERAL AND SPECIAL PROVISIONS.

- Section** 540. Nautical school.
541. Salaries; classes and grades continued; equal pay.
542. Salaries of members of supervising and teaching staff.
543. Reports to mayor.
544. Removal by mayor.
545. Certain private schools to participate in common school fund; report as to moneys and attendance; accidental omission to report.
546. New York Institution for the Blind.
547. Trustees of certain schools may convey them to the city.
548. Sectarian schools; restrictions as to appropriations; bible retained.
549. Public school moneys; state apportionment.
550. Anniversary day in the borough of Brooklyn.
551. School notice.

§ 540. Nautical school. The board may maintain and conduct a nautical school for the education and training of pupils in the science and practice of seamanship and navigation. The board may cause pupils of such school to take cruises for the purpose of obtaining a practical knowledge of navigation and of the duties of mariners, and the board may apply to the United States government for the use of vessels and supplies needed for the purposes of the school. The chamber of commerce of the city of New York may appoint a committee to serve as a council of the nautical school and co-operate with the board of education in the management and development thereof.

§ 541. Salaries; classes and grades continued; equal pay. The salaries, classes and grades of all officers and employees including all members of the supervising and teaching staffs, respectively, of

the department of education shall continue as they exist at the time this act shall take effect, unless and until thereafter changed by the board of education with the approval of the board of estimate and board of aldermen. Janitors and janitor engineers shall continue to be paid at the rate and upon the basis of compensation now received by them until and unless hereafter changed as provided in this section.

§ 542. Salaries of members of supervising and teaching staffs. Salaries of the members of the supervising and teaching staffs shall be as follows:

The salary, including the annual increment, to which a present member is entitled under a specific salary schedule now existing, shall not be reduced. If a male member be advanced to a position higher in rank, his salary, including the annual increment, in the advanced position shall be that fixed in the schedule therefor in force at the time of such advance, except that it shall be not less than that received by him immediately prior to such advance. The salaries of all present female members, and males and females who hereafter become members shall be not less than these fixed in the schedules approved by the board of education in the seventeenth and twenty-fourth days of May, nineteen hundred and eleven. In the schedules of salaries hereafter adopted there shall be no discrimination based on the sex of the member. No principal or assistant principal or head of a department of a school shall receive a salary less than that of any teacher in the elementary schools.

§ 543. Reports to mayor. The board of education shall, on or before the thirtieth day of November in each year, make and transmit to the mayor a report in writing, for the year ending on the thirty-first day of July next preceding, stating the whole number of schools under its jurisdiction during said year; the number of teachers; the total number of pupils on register, and the average attendance at each school; the number of high schools and training schools for teachers, with the number of teachers and the attendance of pupils at each; the corporate schools or societies from which reports have been received, the length of time such schools have been kept open, and the number of teachers and of pupils taught in each such school. The board of education shall also on or before the fifteenth day of February in each year make and transmit to the mayor another report bearing date the thirty-first day of December next preceding, stating in detail the amount

of money expended for the purposes of public education during said year. The board of education shall also make in said reports such suggestions and recommendations relative to the public schools as it may deem proper.

§ 544. Removal by mayor. Any member of the board of education, or member of a local school board appointed by a borough president, may be removed by the mayor upon proof of official misconduct, neglect of duty, conduct tending to discredit him, his office, or the school system, or mental or physical inability to perform his official duties, but before removal he shall receive a copy of the charges and notice of hearing and be entitled to the assistance of counsel. His removal may be reviewed by certiorari.

§ 545. Certain private schools authorized to participate in common school fund; to report as to moneys and attendance; accidental omission to report. The school established and maintained by the Five Points House of Industry, in the city of New York, the school established and maintained by the Ladies' Home Missionary Society of the Methodist Episcopal Church at the institution in Park street, near the place usually called the Five Points, in the said city, and the industrial schools established and maintained under the charge of the Children's Aid Society in the city of New York shall participate through the board of education in the distribution of the common school fund in the same manner and degree as the common schools in the city of New York, and shall be subject to the same regulations and restrictions as are now by law imposed on the common schools of New York.

The New York Orphan Asylum School, the Roman Catholic Orphan Asylum Schools, the schools of the two half orphan asylums, the school of the Society for the Reformation of Juvenile Delinquents in the city of New York, the school for the Leake and Watts' Orphans' House, the school connected with the almshouse of the city, the school of the Association for the Benefit of Colored Orphans, the schools of the American Female Guardian Society, the school established and maintained by the New York Juvenile Asylum, by the New York Infant Asylum, by the Nursery and Child's Hospital, including the country branch thereof; the orphan asylums and industrial schools as existed in the city of Brooklyn on the thirty-first day of December, eighteen hundred and ninety-seven, and the several schools

and branches thereof, the schools organized under the act entitled "An act to extend to the city and county of New York the provisions of the general act in relation to the common schools, passed April eleventh, eighteen hundred and forty-two," or an act to amend the same, passed April eighteenth, eighteen hundred and forty-three, or an act entitled "An act more effectually to provide for common school education in the city and county of New York, passed May seventh, eighteen hundred and forty-four," or any of the acts amending the same, and such schools as may be organized under the provisions of this chapter shall be subject to the general supervision of the board of education, and shall be entitled, through the board, to participate in the apportionment of the school moneys, as provided for in this chapter, but they shall be under the immediate direction of their respective trustees, managers and directors.

Reports as to moneys and attendance. The board of education shall require from the officers conducting schools by appointment of the board, and from the trustees, managers or directors of the corporate schools entitled to participate in the apportionment of school moneys an annual report in such form as the board may prescribe. In making the apportionment among the several schools, no share shall be allotted by the board to any school or society from which such annual report shall not have been received. Whenever an apportionment of the public money shall be withheld from a school, in consequence of an accidental omission to make a report required by law, or to comply with any other regulation or provision of law, the board of education may direct an apportionment to be made to such school.

§ 546. New York Institution for the Blind. The board of education is hereby authorized and required to distribute to the managers of the New York Institution for the Blind a ratable proportion of the school fund on account of every blind pupil in said institution, without regard to age.

§ 547. Trustees of certain schools may convey them to the city. The trustees, managers and directors of any of the corporate schools entitled to participate in the apportionment of the school moneys may, at any time, convey their property to the city, on such terms as may be agreed to by the board of estimate.

§ 548. Sectarian schools; restrictions as to appropriations; bible retained. No school shall be entitled to or receive any por-

tion of the school moneys in which the religious doctrines or tenets of any particular religion or religious sect shall be taught, inculcated or practiced, or in which any book, containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular religious sect shall be used, or which shall refuse to permit the visits and examinations provided for in this chapter. But nothing herein contained shall authorize the board of education or any local school board to exclude the Holy Scriptures, without note or comment, or any selections therefrom, from a school; but the board of education shall not decide what version, if any, of the Holy Scriptures, shall be used in a school; provided that nothing herein contained shall be so construed as to violate any rights secured by the constitution of this state or of the United States.

§ 549. Public school moneys; state apportionment. When the city clerk receives notice from the state commissioner of education of the amount of moneys apportioned to the city for the support and encouragement of common schools therein, he shall immediately notify the board of estimate and the chamberlain. The chamberlain shall apply for and receive the school moneys apportioned to the city as soon as the same is payable and pay the same into the city treasury, to the credit of the general fund for the reduction of taxation.

§ 550. Anniversary day in the borough of Brooklyn. The first Thursday in June in each year, except the years when the first Thursday in June occurs in the same week with memorial day, and in such years the second Thursday in June, known as anniversary day, and celebrated in commemoration of the organization of Sunday schools, is hereby made and declared to be a holiday in all the public schools in the borough of Brooklyn, and the board of education shall cause all public schools in such borough to be closed on said day.

§ 551. School notice. The board may cause notice announcing the opening of schools, public lectures, recreation and playground centers, also examinations to be held by the board of examiners and examinations for admission to the training schools for teachers, to be published in daily and weekly publications published in the city.



## ARTICLE 6.

## COLLEGE OF THE CITY OF NEW YORK.

Section 560. College to continue as a separate corporation.

561. Trustees of college; number and appointment.

562. Laws applicable.

563. Participation in state funds.

564. Maintenance of college.

565. Instruction to be furnished gratuitously; degrees and diplomas.

566. Reports of trustees.

567. College officials and professors' retirement fund.

§ 560. College to continue as a separate corporation. The College of the City of New York shall continue to be a body corporate, and as such shall have the powers and privileges of a college pursuant to the education law.

§ 561. Trustees of college; number and appointment. The board of trustees of said college shall consist of nine residents of the city to be appointed as hereinafter provided, and of the president of the board of education of the city, ex officio. Except as herein otherwise provided, the board of trustees shall have and possess the powers conferred upon and be subject to the duties required of the trustees of colleges by the education law. Each of the trustees appointed by the mayor shall hold office for the term of nine years. The trustees now in office shall serve for the remainder of the terms for which they were respectively appointed. On or before the first day of June prior to the expiration of the term of office of any trustee the mayor shall appoint his successor for a full term of nine years from the first day of July following. The mayor shall fill any vacancy existing in the office of trustee, other than the president of the board of education, by the appointment of a trustee to hold office for the unexpired term. Each trustee so appointed shall take the constitutional oath of office. A resignation from the office of trustee shall be made to the mayor. A trustee may be removed by the mayor upon proof of official misconduct or neglect of duty, or of conduct tending to discredit him or his office, or for mental or physical inability to perform his duties, but before such removal he shall receive a copy of the charges and notice of hearing, and shall be entitled to the assistance of counsel. His removal may be reviewed by certiorari. The board of trustees may prescribe by-laws and regulations for the

board and for the government of the college, its faculty, instructors and other employees. Such by-laws shall include rules governing the appointment of all officers, members of the faculty, instructors and other employees. A majority of the appointive members of the board shall constitute a quorum for the transaction of business and no resolution or act of the board shall be invalid by reason of any vacancy existing in the board, provided that such act or resolution be adopted by a vote of five appointive members.

§ 562. Laws applicable. All laws now in force relative to the College of the City of New York are hereby continued in force so far as not inconsistent with this act.

§ 563. Participation in state funds. The College of the City of New York shall be entitled to participate in the distribution of the income of the literature and other funds in the same manner and upon the same conditions as the other colleges of the state, and the regents of the university of the state of New York shall pay annually to the chamberlain of the city of New York, in trust for the college, the distributive share of said funds to which the college shall be entitled, and which shall be applied and expended for library books for the college.

§ 564. Maintenance of college. It shall be the duty of the trustees of the college, annually on or before the first day of July, to report to the board of estimate such sum as they require for the payment of the salaries of the professors and officers and maintenance and general expenses of the college; and the board of estimate is hereby authorized to make provision therefor in the budget. The trustees shall not make any expenditure or incur debt beyond the amount appropriated.

§ 565. Instruction to be furnished gratuitously; degrees and diplomas. The trustees shall furnish the benefit of education, gratuitously, to boys who shall have been pupils in the city schools and to all other male students who are actual residents of the city and who pass the required examination for admission. And the trustees, upon the recommendation of the faculty of the college, may grant the usual degrees and diplomas. The trustees may also provide extension courses, approved by the board of education, open to the teachers of the public school system.

§ 566. Reports of trustees. The trustees shall make and transmit, annually on or before the first day of February in each year, to the mayor a report, dated on the thirty-first day of December next preceding, which shall give information concern-

ing the trustees, faculty, students, instruction, equipment, methods, funds and operations, and such other information in relation to the college and the management thereof, as the mayor may require.

§ 567. College officials and professors' retirement fund. 1. The retirement fund for the president, vice-president, professors, assistant professors and instructors of the college is continued, and shall consist of one per centum annually, or as much thereof as is necessary, of all moneys received into the city treasury from excise taxes for the business of trafficking in liquors; and of one per centum of the annual salaries of all members of the supervising and teaching staffs of the college to be deducted by the board of trustees on each and every pay-roll from every amount earnable during the period covered by such pay-rolls.

2. The comptroller shall, as directed by the board of trustees pay out the same. The comptroller shall report in detail to the board of trustees annually in the month of January the amounts paid out by him in the preceding year on account of the retirement fund.

3. The board of trustees may, by a two-thirds vote of all its members, retire any member of the supervising or teaching staff of the college who shall have attained the age of sixty-five years, and shall have been engaged as a supervising officer, professor, assistant professor or instructor in the college for ten years, and has taught in some university, college, academy, educational institution or in the common schools of this or some other state altogether for thirty years, and in the event of such retirement he shall be entitled to the annuity hereinafter provided. A president, vice-president, professor, assistant professor or instructor who shall have served consecutively for twenty years in the college, or who is connected with the college and shall have served the college for ten years and taught or acted as supervising officer in some university, college, academy, educational institution or in the common schools of this or some other state altogether for thirty years, shall on his own application be retired from active service, and upon such retirement, duly approved by a majority vote of the board of trustees, be entitled to receive an annuity out of said retirement fund of one-half the annual salary paid to him at the date of such retirement, and should said annuity, in case of a professor, be less than three thousand dollars it may in the discretion of the board be increased to such sum. The board

may, by a two-thirds vote of all its members, appoint a person, who has been retired as hereinbefore provided, to active duty for a term of not more than one year in a position similar to that formerly held by him. Such person so appointed to active duty shall be entitled to the annuity to be paid out of the retirement fund as hereinbefore provided and an additional sum to be paid out of funds in the hands of the board of trustees for the general expenses of the college, as compensation for his services, which additional sum shall be equal to the difference between the amount of the annuity received by him and the amount of his salary for the year immediately preceding his retirement, so that the total amount paid him shall equal his salary for the year immediately preceding his retirement.

## ARTICLE 7.

### HUNTER COLLEGE OF THE CITY OF NEW YORK.

Section 575. Hunter College of The City of New York a corporation.

576. Board of trustees; powers and duties.

577. Laws applicable to; participation in state funds.

578. Maintenance of college.

579. Instruction to be furnished gratuitously; degrees and diplomas.

580. Reports of trustees.

581. College officials and professors' retirement fund.

Section 575. Hunter College of The City of New York a corporation. Hunter College of The City of New York is hereby constituted a corporation and shall be the successor of the Normal College of The City of New York. The Hunter College of The City of New York shall have the powers and privileges of a college pursuant to the education law.

§ 576. Board of trustees; powers and duties. The board of trustees of said college on and after the first day of September, nineteen hundred and eleven, shall consist of nine residents of the city to be appointed as hereinafter provided, and the president of the board of education, ex officio. At least three members of the board of trustees shall be women. Except as herein otherwise provided, the said board shall have and possess the powers conferred upon and be subject to the duties required of the trustees of colleges by the education law. The

mayor of the city of New York shall appoint nine persons to serve as such trustees, to hold office respectively as shall be designated by the mayor, for one, two, three four, five, six, seven, eight and nine years from the first day of September, nineteen hundred and eleven. On or before the first day of August prior to the expiration of the term of office of any trustee the mayor shall appoint his successor for a full term of nine years from the first day of September following. The mayor shall fill any vacancy existing in the office of trustee—other than the president of the board of education—by the appointment of a trustee to hold office for the unexpired term. Each trustee so appointed shall take the constitutional oath of office. A resignation from the office of trustee shall be made to the mayor. A trustee may be removed by the mayor upon proof of official misconduct or neglect of official duty, or of conduct tending to discredit him or his office, or for mental or physical inability to perform his duties, but before such removal he shall receive a copy of the charges and notice of hearing and shall be entitled to the assistance of counsel. Any removal may be reviewed by certiorari. The board of trustees shall have power to prescribe by-laws and regulations for the board and for the government of the college, its faculty, instructors and other employees. Such by-laws shall include rules governing the appointment of all officers, members of the faculty, instructors and other employees. A majority of the members of the board shall constitute a quorum for the transaction of business and no resolution or act of the board shall be invalid by reason of any vacancy existing in the board, providing that such act or resolution be adopted by a vote of five appointive members.

§ 577. Laws applicable to; participation in state funds. All statutes now in force relating to the Normal College of The City of New York, not inconsistent with the provisions of this act, are hereby declared to be applicable to the Hunter College of The City of New York. The college shall be entitled to participate in the distribution of the income of the literature, and other funds of the state in the same manner, and upon the same conditions as the other colleges of the state, and the regents of the University of the State shall pay annually to the chamberlain in trust for the college the distributive share of the funds to which the said college shall be entitled, and which shall be applied and expended for library books for the college.

§ 578. Maintenance of college. It shall be the duty of the

trustees of the college annually on or before the first day of July to report to the board of estimate such sum as they may require for the payment of salaries of the professors, officers and employees, and for the maintenance and general expenses of the college; and the board of estimate is hereby authorized to make provision therefor in the budget. The trustees shall not make any expenditure or incur debt beyond the amount appropriated.

§ 579. Instruction to be furnished gratuitously; degrees and diplomas. The board of trustees of said college shall furnish the benefit of education gratuitously to girls who have been pupils in the city schools, and to all other girls who are actual residents of said city, and who passed the required examination for admission to said college; and the board of trustees, upon the recommendation of the faculty of the said college, may grant the usual degrees and diplomas. The board of trustees shall give normal instruction in manual training for the purpose of preparing teachers of manual training.

§ 580. Reports of trustees. The trustees of the Hunter College of The City of New York shall make and transmit annually, on or before the first day of February, to the mayor, a report, dated on the last day of December next preceding, which report shall give information concerning the trustees, faculty, students, instruction, equipment, methods, funds and operations, and such other information in relation to the college, and the management thereof, as the mayor may require.

§ 581. College officials and professors' retirement fund. A retirement fund for the supervising and teaching staff of the college and for the training department of said college is hereby created, and shall consist of (1) one per centum of the annual salaries of all persons who may become entitled to pensions under this section, to be deducted by the board of trustees on each and every pay-roll of all members of the supervising and teaching staffs of the college from every amount earnable during the period covered by such pay-rolls, and (2) one per centum annually or as much thereof as is necessary of all moneys received during the next preceding calendar year into the city treasury from excise taxes for the business of trafficking in liquors. The comptroller of the city shall by the direction and request of the board of trustees of the college pay out the same. The board of trustees may,

by a two-thirds vote of all its members, retire any member of the teaching or supervising staffs of the college or of the training department of the college who is mentally or physically incapacitated for the performance of duty, who shall have been engaged in said college or training department or elsewhere in the public school system of the city for fifteen years and shall have been engaged in the work of teaching or of school or college supervision or of examination of teachers for licenses, or any two or more of said kinds of work during a period aggregating twenty years, and in the event of such retirement he shall be entitled to the annuity hereinafter provided. The board of trustees may also retire any member of the teaching or supervising staff of the college upon his application who shall have been engaged in the work of teaching or school or college supervision or examination of teachers for licenses, or any two or more such occupations, for a period aggregating thirty years. Upon such retirement, the person retired shall be entitled to receive an annuity out of the fund of one-half of the annual salary paid to such person at the date of retirement, and should said annuity, in the case of a professor, be less than three thousand dollars it may be increased to said sum. Any person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of said person bears to thirty years. The annuities provided for by this act shall be payable in monthly instalments. This article shall not be construed as prohibiting the reappointment to active service, on his application, of a person who has been retired. Upon the reappointment of any such person the payment of the annuity of said person shall be discontinued. The moneys, securities and effects of the retirement fund for the supervising and teaching staff and the training department of the college and all pensions or annuities granted and payable from the fund, shall be exempt from levy and sale by virtue of an execution and from all process and proceedings to enjoin the payment or disposition of or to recover the same by or on behalf of any creditor or claimant against the beneficiary of the fund.

## CHAPTER XIV.

## DEPARTMENT OF WATER, GAS AND ELECTRICITY.

- Article 1. General provisions. (§§ 590-591.)  
2. Water supply. (§§ 595-610.)  
3. Gas and electricity. (§§ 615-622.)

## ARTICLE 1.

## GENERAL PROVISIONS.

Section 590. Commissioner and deputies; office in each borough.  
591. Jurisdiction.

Section 590. Commissioner and deputies; office in each borough. The head of the department shall be the commissioner of water, gas and electricity. He shall appoint five deputies and a secretary. The department shall maintain an office in each borough.

§ 591. Jurisdiction. The department shall have charge and control:

1. Of all structures and property connected with the supply and distribution of water for public use, except those owned by private corporations, including all fire and drinking hydrants and all water meters;

2. Of furnishing and maintaining an ample supply of pure and wholesome water, and of the investigation, planning and construction of all work necessary to deliver such supply, with sufficient reserve for contingencies and future demands;

3. Of collecting revenues from the sale or use of water;

4. Of making and enforcing rules and regulations governing and restricting the use and supply of water; of making rules and regulations concerning and of fixing, subject to the approval of the board of estimate, uniform charges and extra and miscellaneous charges for supply of water, the installation of meters, their connections, setting and maintenance and fines for violation of rules and regulations and of enforcing such rules and regulations and collecting such charges and fines; and of making and enforcing rules and regulations and fixing and collecting charges and fines in cases where no rules and regulations or charges or fines approved by the board are applicable. But no fine shall be imposed against any property unless notice thereof be mailed by the department to the property, addressed to the owner, or where his



name is unknown, to "owner or occupant," and hearing afforded so that the fine may be canceled if improperly imposed. Any charge or fine improperly imposed may be canceled or reduced by the commissioner;

5. Of making and enforcing regulations governing the use of gas, electricity, pneumatic power and steam;

6. Of making and performing contracts for furnishing the city, or any part thereof, with gas, electricity or other illuminant or with steam; of selecting, locating and changing lights for the use of the city; of inspecting and testing gas and electricity used for light, heat or power, and gas and electric meters, wires and lights; of the use and transmission of gas, electricity, pneumatic power and steam in, upon, across, over and under all streets and public buildings; of constructing gas and electric mains, conduits, conductors and subways in streets and public places, and granting permission to open streets, when approved by the borough president, and opening the same for the purpose of transmitting, conducting, using and selling gas, electricity, steam or for the service of pneumatic tubes;

7. Of making and performing contracts with a town or village within the watershed of the city water supply for the disposal of its sewage.

## ARTICLE 2.

### WATER SUPPLY.

Section 595. Sources of water supply; commissioner's power in regard thereto.

596. Contracts for water supply; restrictions.

597. Water rents, when charge and lien; action to recover; meter charges, how determined.

598. Water rents; not due until entered.

599. Water rents; when payable; penalty for nonpayment.

600. Water supply may be cut off for nonpayment of charges.

601. Notice of rules; penalty for nonpayment of water rents.

602. Water rents.

603. Unpaid water rents returned to chamberlain.

604. Water for street-cleaning purposes.

605. Unauthorized taking of water; penalty; liability.

Section 606. Preventing or obstructing access to stop-cocks, pipes or meters; penalty.

607. Water supply property in counties outside the city; taxation.

608. Withdrawals from Lake Mahopac.

609. Putnam county; acquisition of lands and water rights and the use of waters in.

610. Prevention of pollution of water supply.

Section 595. Sources of water supply; commissioner's power in regard thereto. The commissioner may examine into the sources of water supply of any private company supplying or proposing to supply the city or a portion thereof or its inhabitants with water to insure an adequate supply by such company of pure and wholesome water, and to establish reasonable and necessary rules and regulations in respect thereof; and may superintend, regulate and control the supply of water by such companies, including just and reasonable rates and charges to be made therefor. The city may contract with a municipal corporation or board thereof for a supply of water from its water system and convey such water to the city. The city may acquire by purchase, lease or otherwise, lands or water in other states, or rights, interests or privileges in, to or over lands or water in other states for the purpose of supplying water to the city. This section shall not limit the rights, property, power or jurisdiction now possessed by the city in relation to the possession, maintenance, operation or completion of its present water system. The city shall have the right to use the ground or soil under any street, highway or road within the state for the purpose of conveying water to the city, on condition that it cause the surface of such street, highway or road to be restored to its original state, and repair all damage.

§ 596. Contracts for water supply; restrictions. The commissioner may contract with a municipal corporation or board thereof or person or corporation engaged in the business of supplying or selling water, for the purchase of water by the city or for the sale of the city's water, provided that consent first be given by the board of estimate and by the mayor. All proceedings relating to the making or approval of any such contract may be reviewed by the appellate division of the supreme court in the first or second department on the application of any resident taxpayer.

§ 579. Water rents, when charge and lien; action to recover; meter charges, how determined. Water rents shall from the time

they are payable be a charge against the real property upon which they are imposed and, if not paid to the department, shall be returned by the commissioner to the chamberlain and shall from the time they are payable to the receiver of taxes be a lien against such property until paid. In addition to collecting water rents by sale of tax lien the city may maintain an action for their recovery against the individual for whose benefit or by whom the water is taken or use. Where charges are made for water supplied by meter, the charge for water so supplied to the whole or to any portion of the premises by meter shall be determined, except as hereinafter provided, only by the quantity of water actually used as shown by such meters.

§ 598. Water rents; not due until entered. No charge for expense of meters, their installation, connections, setting and maintenance or fine or penalty imposed, against any premises supplied with water by meter shall be due or become a charge on the real property where a water meter shall be installed or against which a charge shall be made, until such charge shall have been definitely fixed by the commissioner, or such other person as he may delegate, and an entry of the amount thereof shall have been made, with the date of such entry, in the book in which the charges for water supplied by meter against real property are to be entered. No charge for water supplied by meter shall be due or become a charge upon the premises where such meter is installed until an entry shall have been made indicating that said premises are metered, with the date of such entry in the book in which the charges for water by meter measurement against such premises are to be entered. Whenever an increase in the amount of the annual frontage rate or extra or miscellaneous charges shall be made, or a charge shall have been made for water for any building completed subsequent to the first day of January in each year, the increase in the amount of the charge or new charge for such new building shall not be due or become a charge against the premises until the amount thereof shall have been entered with the date of such entry in the book in which the annual frontage rate and extra or miscellaneous charges against such premises are to be entered.

§ 599. Water rents; when payable; penalty for nonpayment. Annual frontage rates and extra and miscellaneous charges for water not metered shall be due and payable in advance on the first day of January in each year, if entered; and if not paid to or received by the department before the close of the last business day

of the following March, shall be subject to a penalty of five per centum, and if not paid to or received by the department before the close of the last business day of the following June, to a further penalty of ten per centum. If not so entered and payable but entered in any quarter of a year, they shall be due and payable when entered and shall, after the mailing, before or upon the close of such quarter, of notice thereof to the premises against which they are imposed, addressed to "owner or occupant," be subject, if not paid to or received by the department before the close of the last business day of the next quarter, to a penalty of five per centum, and, if not paid to or received by the department before the close of the last business day of the next succeeding quarter, to a further penalty of ten per centum. Meter charges, including charges for the supply of water by meter, and the expenses of meters, their installation, connections, setting and maintenance shall be due and payable when entered, and such charges when entered in any quarter of a year shall, after the mailing, before or upon the close of such quarter, of notice stating the amount due and the nature of the charge, to the last known address of the person whose name appears on the record of such charges as being the owner, occupant or agent, or where no name appears, to the premises addressed to "owner or occupant," be subject, if not paid to or received by the department before the close of the last business day of the next quarter, to a penalty of five per centum and if not paid to or received by the department before the close of the last business day of the next succeeding quarter, to a further penalty of ten per centum.

§ 600. Water supply may be cut off for nonpayment of charges. The commissioner may, where charges other than frontage charges have been made by the department and remain unpaid for more than thirty days, after notice thereof mailed to the premises, addressed to "Owner or occupant," shut off the supply of water to the premises. In case frontage charges are not paid within the period covered by such frontage charges and a notice of such nonpayment is mailed by the department to the premises, addressed to "owner or occupant," the commissioner may shut off the supply of water to such premises.

§ 601. Notice of rules; penalty for nonpayment of water rents. The rents and charges for supply of water, the rules and regulations concerning the use of water and all other regulations affecting users of water or concerning charges for supply of water,

restrictions of the use of water, installation of meters and fines for violation of rules and regulations, shall be printed on each bill and permit so far as they are applicable, in the judgment of the commissioner. This act and such printing and the printing of this section on such bills and permits shall be sufficient notice to water takers to authorize the imposition and recovery of any fines imposed under such rules and regulations and of any penalties imposed in pursuance of this act, in addition to cutting off the supply of water.

§ 602. Water meters. The commissioner shall cause water meters, the pattern and price of which shall have been or shall be approved by the board of aldermen, to be placed in all stores, workshops, hotels, manufactories, office buildings, public edifices, properties exempt from water charges, at wharves, ferry-houses, piers, bulkheads, stables and in all premises in which water is furnished for business consumption, or for power, heat, light or refrigeration, and, if authorized by the board of estimate on a recommendation of the commissioner, in any or all apartment-houses, tenement-houses, private dwellings and premises, where no water is furnished for such purposes, so that all water so furnished may be measured and known by the department for the purpose of ascertaining the amount of water furnished and the payment to be made therefor. Thereafter, as shall be determined by the commissioner, the department shall make out all bills and charges for water furnished by the department to such property (except properties exempt from water charges) in ratable proportion to the water furnished as ascertained by meter, except that when a meter fails to register correctly, or ceases to record the water, or where a meter shall have been removed from a building for repairs, or for any other reason, then the commissioner may disregard such incorrect registry or non-registry and may charge for water supplied during the period of such incorrect registry or nonregistry and during the period when such meter shall have been out of such building for repairs or for any other reason, at the average daily registration of water indicated by the meter for the period of three months subsequent to its repair, resetting or installation and proper registration upon said premises. Except as to properties exempt from water charges, all expense and cost of meters, their installation, connections, setting and maintenance, when incurred or borne by the department upon the failure of the owner, after notice mailed to

the premises directed to the owner or occupant, to incur such expenses, shall, together with all water rents, be a charge against the premises where such water is supplied and shall, from the time they are payable to the receiver of taxes, be a lien against the premises until paid. The reasonable value of the necessary time of a plumber acting under direction of the commissioner, in visiting premises for the purpose of installing a meter therein when the owner fails to make such installation as herein provided, shall, when such plumber is refused admission or access to the premises or is prevented by the owner or his agent or tenant from making the required installation, become a lawful charge and lien against such premises in like manner as other charges.

§ 603. Unpaid water rents returned to chamberlain. The commissioner annually, on the first day of March, shall cause to be transmitted to the chamberlain a separate account for each section or ward of the city of all lots against which there is unpaid any frontage charge, extra or miscellaneous charge for water not metered which became payable on or before the first day of the preceding July, with any fine for violation of rules or regulations imposed before such first day of July and any unpaid penalty for nonpayment of the charge, together with the amount due for such charge, penalty or fine on each lot. He shall also annually on the first day of March cause to be transmitted to the chamberlain a similar separate account for each section or ward of the city of all lots against which there are unpaid any meter charges, including charges for the supply of water by meter and the expense of meters, their installation, connections, setting and maintenance, which became payable before the first day of the preceding July, with any fine for violation of rules and regulations imposed before such first day of July, and any penalty for nonpayment of the charges, together with the amount due for any such charge, penalty or fine on each lot. He shall at the same time notify the comptroller of the aggregate of such charges as returned, and shall thereafter receive no payment on account of the same, but may, nevertheless, certify to the chamberlain and the comptroller any error or overcharge, which shall pursuant to such certificate be corrected and remitted or refunded as the case may be by the comptroller and chamberlain. Prior to the time that such charges transmitted to the chamberlain are entered upon the tax-rolls and

become payable to the receiver of taxes, payment thereof may be made to the chamberlain, and such payment shall be credited by the receiver of taxes.

§ 604. Water for street cleaning purposes. The commissioner may permit the commissioner of street cleaning, or a borough president or person having a contract for flushing or washing streets or water front property, to use as much water as may be necessary for such purposes. Any such contract shall provide for reasonable payment to the department at fixed rates for water so used.

§ 605. Unauthorized taking of water; penalty; liability. No person, not authorized to do so by the commissioner, or this act or other statute, shall take water from any hydrant, main or water connection in the city. A person violating this provision shall be subject to a penalty of twenty-five dollars for each day the same continue, to be recovered by an action. Any person so taking water shall in addition be liable for the quantity of water so taken, which in an action for the recovery of the value thereof at meter rates shall be presumed to be the amount of water which would pass through the pipes from which the water was taken, under the pressure existing during the period of such taking.

§ 606. Preventing or obstructing access to the stop-cocks, pipes or meters; penalty. A person preventing or obstructing the access to stop-cocks, pipes or meters connected with the water service, by any means including placing thereon or thereby or permitting to be so placed by his agent, tenant or employee, stone, brick, lumber, coal, dirt or other material, shall be subject to a penalty of fifty dollars for each violation, and to an additional penalty of twenty-five dollars for each day the same shall be continued after service of notice of removal.

§ 607. Water supply property in counties outside the city; taxation. Real property, exclusive of aqueducts, taken for water supply purposes of the city, or for the purpose of preventing contamination or pollution of its water supply, shall be assessed and taxed in the counties in which it is located, in the manner prescribed by law.

§ 608. Withdrawals from Lake Mahopac. Only water in excess of the ordinary flow shall be drawn from Lake Mahopac, in the town of Carmel, Putnam county, between the first days of March and September.

§ 609. Putnam county; acquisition of lands and water rights and the use of waters in. The city shall not acquire by condemnation any factory in Putnam county which, prior to the year eighteen hundred and eighty-one, had been used for the manufacture of food products; nor acquire by condemnation any real property on the east branch of the Croton river, below the village of Brewster in the town of Southeast, Putnam county, for the construction of any reservoir in which water may be impounded at a level higher than three hundred and ten feet above tide water at New York city. Whenever the waters of natural lakes in Putnam county shall have been acquired by the city, or reservoirs shall have been constructed, the residents of said county shall have the right of boating and fishing in said lakes and reservoir and of taking ice therefrom, subject to such regulations as the commissioner may make to preserve the purity of the water and to prevent nuisances. Any municipal or other corporations in the county of Putnam, or person authorized to establish therein a system for supplying a village or town or the inhabitants thereof with water, may connect its or his water mains or pipes with the lakes, streams, reservoirs, aqueducts, water pipes and conduits of the city located in such county, and take water therefrom for such purpose. Such connections shall be made in the manner agreed upon between such corporation or person, and the commissioner, or as directed by a special term of the supreme court held in the ninth judicial district, upon application of such corporation or person. The amount of water that may be drawn shall not exceed the proportionate amount that is used by the city, the proportion being calculated according to the number of inhabitants respectively of the city, and the village or town as shown by the last preceding census of the United States. The amount to be paid to the city for water so supplied shall be agreed upon between the board of estimate and the authorities of such village or town, or such corporation or person, or fixed by a special term of the supreme court held in the ninth judicial district upon application of such corporation or person.

§ 610. Prevention of pollution of water supply. The state department of health shall, for the purposes of this section, fix and determine the "area of pollution" of each lake, reservoir and stream taken, reserved or maintained for water supply purposes which shall comprise the lands bounding upon each such lake, reservoir and stream extending fixed distances from the high



water line of the lake, or reservoir or from the center of the stream. A map or maps showing the lands within a county comprised within such area of pollution shall be filed in the office of the county clerk of the county. The necessary expenses incurred by the state department of health shall be a charge against the city. The commissioner of water, gas and electricity shall, within the portion of such area of pollution comprised within a municipality, possess all of the powers of a local board of health of such municipality, as provided by the public health law or other statute, in so far as the same may relate to the pollution of any such lake, reservoir or stream. The city shall be liable for all damages to buildings or other structures or water power.

### ARTICLE 3.

#### GAS AND ELECTRICITY.

Section 615. Officers and employees not to be interested.

616. Electrical control and inspections.

617. Street lighting; separate contracts for each borough.

618. Electricity; meters and tests.

619. Removal of overhead wires in Manhattan and Bronx.

620. Removal of overhead wires in Brooklyn, Queens and Richmond.

621. Removal of conductors.

622. Disturbance of pavements and street surface; permits.

Section 615. Officers and employees not to be interested. No officer or employee of the department shall, directly or indirectly, be pecuniarily interested in the manufacture or sale of gas, electricity or steam, or of gas or electric or steam meters, or of any article or commodity used by gas or electric companies, or in the consumption of gas, electricity or steam, or give certificates or written opinions to a maker or vendor of any such article or commodity, or be so interested in a gas, electric or steam company.

§ 616. Electrical control and inspections. The commissioner shall have control of and shall cause to be inspected all gas and electrical equipment, apparatus and appliances placed in any building, street or premises in the city, and shall furnish a certificate of such inspection to any person applying therefor. Notice of violation of any provision of this section, or of any ordinance or regulation, rule or order relating to gas and electricity or to gas or electrical equipment, apparatus or appliances, shall be issued

and served in the manner provided for the service of notices of the health department. The violation of any law, ordinance, rule or regulation relating to the use of gas, electricity, pneumatic power or steam shall subject the person committing the same to the penalties prescribed in the building code or by ordinance for such violations.

§ 617. Street lighting; separate contracts for each borough. The commissioner shall prepare the specifications of contracts for lighting the streets, public buildings and parks and for furnishing gas, electricity and steam for lighting, heating and power to public buildings. Separate contracts shall be made for lighting in each borough or subdivision of the city as the board of estimate may determine. A contract for public lighting shall be made for a term of not exceeding one year. A contract made for a borough or other subdivision of the city shall include all lights of the same kind used in such borough or subdivision ordered by the commissioner during the term of said contract. But no contract shall be awarded unless the board of estimate be satisfied that the bidder has sufficient plant to carry out the provisions of the contract.

§ 618. Electricity; meters and tests. The commissioner shall cause inspection to be made of gas and electric lights furnished to the city, and of all gas and electric meters and gas and electric apparatus, equipment and appliances in the city, and cause tests to be made of all meters in use in the city for measuring the quantity of gas, electricity or steam furnished by any corporation or person in the city. No person shall furnish or install any gas, electric or steam meter which shall not have been inspected, approved and sealed or stamped by an inspector of the department, and every such person shall keep on his premises suitable testing apparatus, approved and sealed by an inspector, for proving the accuracy of meters furnished for use. Meters in use shall be re-inspected and tested on the written request of a consumer, or of the purveyor, in the presence of the consumer, if desired. If any such meter on being tested shall be found defective or inaccurate to the prejudice or injury of the consumer, the necessary removal, inspection, correction and replacing of such meter shall be without expense to the consumer; but in all other cases, except where the change is beneficial to the purveyor, the consumer shall pay the reasonable expense of such inspection, and the re-inspection shall be stamped on the meter; provided, however, that an electric meter which, in its construction or use, is not susceptible of being sealed shall be stamped; and every person using

meters shall at all times admit the inspectors of meters of the department to inspect all meters and all processes, methods and operations of measuring gas, electricity, steam or pneumatic power.

§ 619. Removal of overhead wires in Manhattan and Bronx. Whenever the board of estimate determine that the electrical conductors above ground in any street within the borough of Manhattan or Bronx, the grade of which shall have been established, be removed and placed underground the commissioner shall notify the owners or operators of such electrical conductors to remove and place the same underground within a reasonable time fixed by the commissioner. When application be made to the commissioner and permission be granted according to law to place underground electrical conductors in a street, in the borough of Manhattan or Bronx, the subways therefor shall be constructed or provided, and the conductors placed underground in accordance with the provisions of statute.

§ 620. Removal of overhead wires in Brooklyn, Queens and Richmond. Whenever the board of estimate determine that electrical conductors above ground in a street in the borough of Brooklyn, Queens or Richmond be placed underground, the commissioner shall notify the owners or operators of such conductors to remove and place the same underground within a reasonable time to be fixed by the commissioner. When a duly authorized person operating or intending to operate electrical conductors in a street in the borough of Brooklyn, Queens or Richmond desire to place his conductors or any of them underground, he shall file with the commissioner a map or maps, showing the streets desired to be used for such purpose, giving the general location, dimensions and course of the underground conduit desired to be constructed. The commissioner shall require the work of removal and construction of every system of underground conductors to be done according to a plan approved by him.

§ 621. Removal of conductors. If a person ordered to remove and place underground electrical conductors fail to comply with the order of the commissioner within the time fixed therefor, the commissioner shall, within thirty days, remove such conductors, at the expense of the owner or operator of such conductors, and shall, in the name of the city, maintain an action against such owner or operator to recover the expense of such removal, with costs.

§ 622. Disturbance of pavements and street surfaces; per-

mits. No person shall take up the pavement or disturb the surface of a street, or excavate for the purpose of laying underground conductors of gas, electricity, steam or pneumatic power, constructing subways, or erecting poles, unless permission in writing therefor shall have been first obtained from the commissioner, with the written permit of the borough president of the borough within which it is desired to perform such work. No such conductors shall be placed or maintained above or below the surface of a street without permission in writing from the commissioner. The commissioner shall determine whether any extension of existing conductors shall be by means of overhead or underground conductors.

## CHAPTER XV.

### POLICE DEPARTMENT.

- Article 1. Organization and jurisdiction of the department.  
(§§ 630-657.)  
2. Pension fund. (§§ 660-667.)

## ARTICLE 1.

### ORGANIZATION AND JURISDICTION OF THE DEPARTMENT.

- Section 630. Police commissioner; deputies.  
631. Composition of police force.  
632. Grades.  
633. Qualifications of members, publishing names and residence of applicants and appointees.  
634. Detective service.  
635. Police surgeons; duties and districts.  
636. Police matrons.  
637. Officers and employees of the telegraph service.  
638. Promotions.  
639. Captains detailed as inspectors.  
640. Duty of department and police force.  
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645. Marine service; mounted patrols.  
646. Jurisdiction over certain businesses and occupations.

## Section 647. Rewards.

648. Gratuities.

649. Station-houses; boundaries of precincts; headquarters.

650. House of detention of witnesses.

651. Designation of station-houses for detention of women.

652. Accommodations for women; communication with prisoners.

653. Proceedings where woman is arrested.

654. Complaints; oath may be required.

655. Arrests; execution of warrants.

656. Returns of arrest; arraignments.

657. Property clerk; powers and duties.

Section 630. Police commissioner; deputies. The head of the department shall be the police commissioner. He shall have charge of the property and control of the government and administration of the department, and of the disposition and discipline of the police force, including the power of appointment, detail and transfer. He shall appoint four deputies and one secretary. He may delegate to a deputy any of his powers except the power of making appointments, removals and transfers.

§ 631. Composition of police force. The police force shall consist of the following members and ranks: Captains, chief of detectives, lieutenants, sergeants, detectives, patrolmen, matrons, chaplain, superintendent and assistant superintendent of telegraph, telegraph operators, ranking as lieutenants of police, chief lineman, ranking as sergeant, linemen, wiremen and batterymen, ranking as patrolmen of the first grade, superintendent of inspectors of boilers, inspector of boilers, surgeons of police, of whom one shall be appointed chief surgeon, and such members shall constitute the uniformed force of the department. The rank or grade of doormen of police is abolished and the doormen of police now in office shall become and have all the rights and privileges of patrolmen. Time served as doormen shall, for all purposes, count as if served as patrolmen.

§ 632. Grades. The commissioner may classify the members of each rank into grades, with the consent of the board of estimate and the concurrence of the board of aldermen. Except as otherwise provided herein the grades now established shall continue until changed.

§ 633. Qualifications of members; publishing names and residence of applicants and appointees. No person shall be eligible to appointment to or membership in the police force who shall not be a citizen of the United States, who shall have been convicted of felony, or who shall be unable to read or write understandingly the English language, or who shall not have resided within the state one year next preceding his appointment, except that skilled officers of experience may be appointed for detective service irrespective of residence. No person shall be appointed patrolman who shall be, at the date of the filing of his application for civil service examination, over thirty years of age. The name, residence and occupation of each applicant for appointment or reappointment or reinstatement to any position in the department, and the name, residence and occupation of each person appointed, reappointed or reinstated to any position, shall be published in the City Record, on the Saturday next succeeding such application, appointment, reappointment or reinstatement. Preliminary to a permanent appointment as patrolman there shall be a period of probation for such time as may be fixed by statute or civil service rule, and no person shall receive a permanent appointment who shall not have served the required probationary period. Service during probation shall constitute service in the uniformed force if succeeded by permanent appointment, and shall be included and counted in determining eligibility for advancement, promotion, retirement and pension.

§ 634. Detective service. The commissioner shall, from time to time, detail to detective service as many members of the police force as he may deem necessary, and may at any time revoke any such detail. Of the members of the police force so detailed the commissioner may designate such number as the board of estimate determine as detectives of the first grade, who while performing detective duty and while so designated as detectives of the first grade, shall be paid the same salary as lieutenants. The commissioner may at pleasure revoke any such designation. The person assigned to the active command of the detective service, while acting in such capacity, shall receive the same salary as a captain detailed to act as inspector. A member detailed to service as a detective shall retain his rank in the force and shall be eligible for promotion, while so detailed, the same as if serving in uniform, and the time during which he serves as a detective shall count for all purposes as if served in his rank and grade.

§ 635. Police surgeons; duties and districts. The commissioner shall prescribe the duties and define the districts of the police surgeons. The commissioner may, if requested by the health department, require the police surgeons to aid the sanitary inspectors in the discharge of their duties.

§ 636. Police matrons. The commissioner shall appoint for each station designated for the detention of women not more than two police matrons. Police matrons shall be appointed to station-houses attached or adjacent to magistrates and special sessions courts. When only one police matron is attached to a station-house, she shall reside therein, or within a reasonable distance, and hold herself in readiness to respond to any call therefrom at any hour, day or night; and each matron shall, during such hours as may be fixed by the commissioner, remain in the station-house. While a woman is detained in a station-house a matron shall remain constantly on duty. A matron shall, subject to the officer in charge, have the care and charge of all women detained in the station-house. The provisions of the general city law relative to police matrons shall not apply to the city.

§ 637. Officers and employees of the telegraph service. A member of the uniformed force in the telegraph service of the department who shall have entered the department as a member of the telegraph service shall not be liable to police duty or eligible to promotion except in the telegraph service. The length of service in the department of a member of the uniformed force in the telegraph service shall be counted from the time of his entry into the service of the department.

§ 638. Promotions. Promotions of members of the police force shall be made by the commissioner on the basis of seniority and meritorious service and superior capacity, as shown by competitive examination, but no detail to act as inspector or to service as a detective shall be deemed a promotion. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The commissioner shall transmit to the municipal civil service commission, in advance of such examination, the complete record in the rank and grade then held by each candidate for promotion, provided, however, that a candidate shall be credited in but one examination for the same acts of bravery or meritorious service and shall not be charged with the same delinquencies in more than

one examination or which have occurred more than three years prior to such examination. Sergeants shall be selected from among patrolmen of the first grade. Lieutenants shall be selected from among sergeants who shall have served at least two years continuously as such. Captains shall be selected from among lieutenants who shall have served at least three years continuously as such.

§ 639. Captains detailed as inspectors. The commissioner may detail nineteen captains to act as inspectors, and such additional captains to act as inspectors as shall be authorized by the board of estimate, and may at pleasure revoke any such detail. While so detailed such officer shall receive such additional salary as may be fixed for said service. When a captain shall have acted under regular details as inspector for a period aggregating five years, he shall, upon retirement, receive the pension which he would be entitled to receive if, at the time of his retirement, he were acting under regular detail as inspector. While a captain is acting under a temporary detail as inspector in place of and during the temporary disability or absence of a captain so detailed he shall not be entitled to additional salary, and the period of such temporary detail shall not be counted in computing such five-year period.

§ 640. Duty of department and police force. It is the duty of the department and members of the police force, at all times of day and night, to preserve the public peace, prevent crime, regulate street traffic, and enforce all laws and ordinances, and prevent their violation.

§ 641. Department to co-operate with health department. The department shall advise promptly the health department of conditions dangerous to human life and health, and of violations of its rules and ordinances, and of the health laws. The department shall execute the sanitary rules and regulations, and written orders of the department of health. The police department may employ appropriate means to enforce the rules, orders and regulations of the health department and any expenditures incurred shall be refunded to the department from the appropriation for the health department. The health department may, with the consent of the commissioner, impose any portion of the duties of its subordinates upon subordinates in the police department.



§ 642. Details to departments. The commissioner, upon the request of the head of any department, board, body or office, may detail to the service of such department, board, body or office, such number of members of the police force as in his judgment may be necessary or the mayor may direct. He shall detail at least two patrolmen for service at each polling place on election day.

§ 643. Special patrolmen. The commissioner may appoint:

1. As many special patrolmen from the resident citizens of the city as he deem desirable, in case of emergency or riot, tumult, mob, insurrection, pestilence or invasion. Each special patrolman shall serve without pay and shall wear a badge to be furnished by the department.

2. Special patrolmen to do special duty upon the application of any person showing necessity therefor. Neither the city nor the commissioner shall be liable to pay any part of the compensation or expense of a special patrolman so appointed, but the same shall be paid by the person upon whose application such special patrolman was appointed.

The commissioner shall prescribe the uniforms and badges to be worn by all special patrolmen; make special rules and regulations for their government, and may at pleasure revoke the appointment of and remove any such patrolman. All special patrolmen shall be subject, in case of emergency, to do duty as a part of the regular police force, and shall at all times be under the supervision and control of the police department. Every such special policeman shall possess the powers and authority, discharge the duties and conform to the general discipline of regular members of the police force; but no such special patrolman shall be deemed to be a member of the uniformed force of the department or entitled to the privileges thereof, or share in the police pension fund.

§ 644. Telegraph and telephone lines. The commissioner shall have power to erect, operate, equip and maintain such systems of telegraph and telephone in the city as may be required for the purposes of the department. Subject to the rules and regulations of the department its telegraph and telephone service may be used for any city purpose.

§ 645. Marine service; mounted patrols. In the performance of police service, the commissioner may procure and use boats and establish mounted patrols.

§ 646. Jurisdiction over certain businesses and occupations. The department shall have general jurisdiction over and supervision and regulation of pawnbrokers, hawkers, peddlers; junk-shop keepers, junk boatmen, cartmen, dealers in second-hand merchandise, intelligence office keepers and auctioners; and the inspecting, testing and issuance of license certificates for steam boilers, and the issuance of certificates of qualification for the care and control of steam boilers, and for the purpose of ascertaining the qualification of applicants for such certificates the commissioner may detail a board of examiners to conduct examinations.

§ 647. Rewards. The commissioner may, with the consent of the board of estimate, offer a reward for information leading to the detection, arrest or conviction of a person guilty of crime, or the arrest of a person suspected of having committed a crime.

§ 648. Gratuities. A member of the police force or employee of the department shall not, directly or indirectly, receive for his own benefit, under penalty of removal, any present, fee, gift or emolument, for police services or for services of the department or any member thereof, in addition to his regular salary or compensation. The commissioner, for meritorious or extraordinary services rendered by a member of the police force in the discharge of his duty, may permit such member to retain for his own benefit a reward or present, or a part thereof, tendered him for such service. A member who receives a reward or present shall immediately give notice thereof to the commissioner. Upon receiving such notice the commissioner may either authorize the member to retain the same or any part thereof, or order it turned over to the commissioner for the benefit of the police pension fund.

§ 649. Station-houses; boundaries of precincts; headquarters. The commissioner shall, when authorized by the board of estimate, establish, provide and equip at least one station-house or sub-station-house, in each precinct, for the accommodation of members of the police force, and places for temporary detention. The number and boundaries of police precincts shall be fixed by the commissioner. One headquarters, or central station, may be established by the commissioner in each borough.

§ 650. House of detention of witnesses. The commissioner shall provide suitable accommodations for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings, other than children actually or apparently under

the age of sixteen years, to be called house for the detention of witnesses; and such accommodations shall be in the premises other than those used for the confinement of persons charged with crime. It shall be the duty of all magistrates, when committing witnesses in default of bail, to commit them to a house for detention of witnesses.

§ 651. Designation of station-houses for detention of women. The commissioner may designate and revoke the designation of station-houses for the detention of women under arrest. He shall designate at least one such station-house in each borough. In every station-house designated for the detention of women or to which police matrons are appointed, toilet accommodations shall be provided separate and apart from those provided for prisoners and male officers.

§ 652. Accommodations for women; communication with prisoners. The commissioner shall provide sufficient accommodation for women in detention. No communication shall be had between men and women detained in a station-house. No person, other than matron, shall be allowed to communicate with women prisoners without the consent of the officer in command of the station-house.

§ 653. Proceedings where woman is arrested. Whenever a woman is arrested and taken to a station-house, to which a matron is attached, the officer in command shall cause the matron to be summoned forthwith and whenever a woman is arrested in any borough she shall be taken directly to the nearest station-house designated to receive women. The separate detention or removal of women shall not operate to deprive a court of jurisdiction.

§ 654. Complaints; oath may be required. Any person making a complaint that a crime has been committed may be required to make oath or affirmation thereto, and for this purpose the police commissioner, each deputy, the chief clerk or a deputy clerk of the department, the captains and lieutenants shall have power to administer oaths and affirmations.

§ 655. Arrests; execution of warrants. The members of the police force shall possess in every part of the state all the common-law and statutory powers of constables, except for the service of civil process, and a warrant for search or arrest issued by any magistrate in the state may be executed, in any part thereof, by any member of the police force.

§ 656. Returns of arrest; arraignments. A member of the police force shall, upon making an arrest, report the same immediately to the superior on duty in the precinct wherein the arrest was made; and such superior shall, within twenty-four hours thereafter, make written return thereof, according to the rules and regulations of the department, with the name of the party arrested, the alleged offense, the time and place of arrest, and the place of detention. Each member of the police force shall, immediately upon an arrest without a warrant, convey in person the person arrested before the nearest sitting magistrate. If no magistrate be then sitting, the person arrested may be detained in a precinct or station-house until the magistrate sit, and shall then be conveyed, without delay, before the magistrate. The commissioner shall make suitable rules and regulations to prevent the undue detention of persons arrested.

§ 657. Property clerk; powers and duties. The commissioner shall designate or appoint a property clerk, who shall give a bond, approved by the commissioner, for the faithful performance of his duties. All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no claimant other than the person from whom it was taken, all lost property coming into the possession of a member of the police force, and all property and money taken from pawnbrokers as the proceeds of crime, or by a member from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves, shall be transmitted, as soon as practicable, to the property clerk. All property and money received by the property clerk shall be described and registered in a book kept for that purpose, which shall contain the name of the owner or claimant, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the same, a description thereof, the names of all claimants thereto and its final disposition. All animals strayed, lost or stolen, which shall come into the possession of the property clerk shall by him be transferred and sent to the public pound. Whenever property or money taken from a person arrested be alleged to have been feloniously obtained, or to be the proceeds of crime, and brought, with all ascertained claimants thereto, and the person arrested, before a magistrate for adjudication, the magistrate shall, in writing, order such property or money returned; the property clerk.

if he have it, shall deliver such property or money to the accused person himself, and not to any attorney, agent or clerk of such accused person. If a claim to the ownership of such property or money be made on oath before the magistrate, by or in behalf of any person other than the person arrested, and the accused person be held for trial or examination, such property or money shall remain in the custody of the property clerk until the discharge or conviction of the person accused and until lawfully disposed of. Property delivered to the property clerk shall, after the expiration of six months, if there be no lawful claimant thereto, after advertisement in the City Record for ten days, be sold at public auction as the commissioner prescribe, and the proceeds paid into the police pension fund. If any property or money in the custody of the property clerk be desired as evidence in any criminal court, it shall be delivered to any officer who shall present an order to that effect from such court. Such property, however, shall not be retained in said court, but shall be returned to the property clerk.

## ARTICLE 2.

### PENSION FUND.

Section 660. Police pension fund; commissioner, trustee of.

661. Funds to be paid trustee; exemption from execution and process.

662. Composition of pension fund.

663. Appropriation for deficit.

664. Retirement of pensions to members.

665. Pension to dependents.

666. When certain pensions terminate; existing pensions continued.

667. Certificate of disability; rules as to pensions.

Section 660. Police pension fund; commissioner, trustee of. The commissioner shall be the trustee and treasurer of the police pension fund. He shall, before entering upon his duties, give a bond, in the penal sum of one hundred thousand dollars, to be approved by and filed with the comptroller, conditioned upon the faithful discharge of his duties, and the accounting for all moneys and property which shall come into his hands. He shall have charge of, invest and administer the fund. He shall make payments from the fund of pensions now charged thereon or any part thereof, by or under existing laws, and said trustee shall be the

legal successor of the trustee or trustees of the police life insurance fund, and of any police pension fund heretofore existing within the present limits of the city, including the pension fund of the former park police of the mayor, aldermen and commonalty of the city of New York, and the pension fund of the park police of the former city of Brooklyn. He may establish rules and regulations for the disposition, investment, preservation and administration of the police pension fund. No payment shall be allowed or made by the trustee from said fund as reward, gratuity or compensation to any person for salary or services rendered to or for the trustee. On or before the first day of February of each year the trustee shall make a verified report, as of the thirty-first day of December next preceding, to the mayor and board of aldermen of the condition of the fund and of his proceedings as trustee, containing a statement of all receipts and disbursements on account of the fund, together with the name and residence of and the amount paid each beneficiary for or on account of said fund. The bookkeeper of the police department shall have charge of the accounts of the fund and be responsible to the trustee for the receipts and disbursements of all moneys that shall come into his hands for or on account of the fund, and he shall, from time to time, render the trustee a verified statement containing the names of all the beneficiaries and the amounts paid them; and he shall give to the trustee a bond in the penal sum of ten thousand dollars, to be approved by the trustee, conditioned for the faithful discharge of his duties; and said bookkeeper shall be entitled to participate in said pension fund as if a member of the police force. There shall be an auditing committee consisting of three members, to be appointed by the mayor: Two members shall be selected from the officers and members of the uniformed force and one member from the retired members of the department. This committee shall, on or before the first day of March in each year, examine the condition of the pension fund and audit the account of the trustee.

§ 661. Funds to be paid trustee; exemption from execution and process. All moneys, bonds, investments, securities, revenues and incomes belonging to the police pension fund shall be paid over and delivered to the commissioner, as trustee. The moneys, securities and effects of the police pension fund, and all pensions granted and payable therefrom, shall be exempt from execution and from all process and proceedings to enjoin the payment or dis-

position of or to recover the same by or on behalf of any creditor or claimant against a beneficiary of the fund. A person who knowingly or willfully makes or procures the making or presentation of a false or fraudulent affidavit concerning any claim for pension or payment thereof shall forfeit a sum not exceeding two hundred and fifty dollars, to be sued for and recovered by and in the name of the trustee, and, when recovered, to be paid over to and become a part of the pension fund.

§ 662. Composition of pension fund. The police pension fund shall consist of:

1. The capital, interest, income, dividends, cash, deposits, securities and credits formerly belonging to the police life insurance fund, and any police pension fund, existing as aforesaid;

2. All forfeitures and fines imposed by the department, upon or against any member or members of the police force;

3. All rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member of the police force on account of police services, except those allowed by the commissioner to be retained by the member;

4. All lost, abandoned, unclaimed or stolen money remaining in the possession of the property clerk for one year, and for which there shall be no lawful claimant, and all moneys arising from the sale by the property clerk of unclaimed, abandoned, lost or stolen property, and all moneys realized, derived or received from the sale of any condemned, unfit or unserviceable property belonging to or in possession or under the control of the department;

5. All moneys, salary or compensation forfeited, deducted or withheld from any member of the police force on account of absence, lost time, sickness or other disability, physical or mental, to be paid monthly to the police pension fund;

6. The sum of four hundred and thirty thousand dollars each year to be paid out of moneys received into the treasury from excise taxes upon the business of trafficking in liquors;

7. All moneys derived from the granting of permits for masked balls, entertainments or parties; and all fees paid for boiler inspection;

8. A sum of money equal to two per centum of the monthly salary or compensation of each member of the police force, which sum shall be deducted monthly from the salary or compensation of such member and be paid to the treasurer of the pension fund;

9. All gifts or bequests which may be made to the fund ;

10. All moneys collected and payable to the fund on account of violations of the agricultural law or payable to the fund under other provision of statute ;

11. All moneys appropriated for the benefit of the fund.

§ 663. Appropriation for deficit. If the police pension fund applicable to the payment of pensions be insufficient for such purpose, the commissioner shall, each year, at the time of making up the departmental estimate, prepare a full and detailed statement of the fund and estimated receipts thereof and the payments to be made therefrom during the succeeding calendar year and present the same to the board of estimate; and an appropriation shall be annually made for such estimated deficit, if any.

§ 664. Retirement of and pensions to members. The commissioner shall retire and dismiss members of the police force from membership therein and thereupon grant annual pensions during the lifetime of the beneficiary as follows:

1. Upon his own application in writing, to a member of the age of fifty-five years, who shall have served for a period of at least twenty-five years, a sum equal to one-half his annual salary;

2. Upon his own application in writing, to a member who is an honorably discharged soldier or sailor of the army or navy of the United States in the late civil war, a sum equal to one-half his annual salary;

3. To a member of the age of sixty-five years, a sum equal to one-half his annual salary;

4. To a member, who, in the performance of duty, and by reason thereof, and without fault or misconduct on his part, shall have become permanently disabled, physically or mentally, so as to be unfitted to perform police duty, a sum equal to one-half his annual salary;

5. To a member, who shall, after ten years of service by reason of disability, physical or mental, have become, without fault or misconduct on his part, unfitted or unable to perform police duty, a sum, in the discretion of the commissioner, equal to not less than one-fourth or more than one-half his annual salary.

A pension granted under this section shall not be revoked or diminished.

§ 665. Pensions to dependents. The commissioners shall grant annual pensions to the dependent parents, widow or children of a deceased member of the police force as follows: If such mem-



ber shall have been killed in the actual performance of duty or have died from the effects of injury received in the actual discharge of duty and leave a dependent parent or parents but no widow, or children under eighteen years of age, the sum of six hundred dollars to such parent or parents; if he leave a widow, or a widow and child or children under eighteen years of age, the sum of six hundred dollars to the widow or widow and child or children, or if the widow die or remarry, to the child or children; or if he leave no widow but a child or children under eighteen years of age, the sum of six hundred dollars to such child or children. If such member die after ten years of service or after retirement upon a pension and leave a widow or widow and child or children under eighteen years of age, the sum of three hundred dollars to the widow or the widow and child or children, or if the widow die or remarry, to such child or children; or if he leave no widow but a child or children under eighteen years of age, the sum of three hundred dollars to such child or children. In the case of a member killed or dying prior to the first day of January, eighteen hundred and ninety-eight, pensions granted to his dependent parents, widow or children, shall be such as he or they would have been entitled to under the laws in force immediately prior to said date.

Pensions granted under this section shall be paid from the date of the death of the member and if there be more than one beneficiary shall be divided among the beneficiaries in such proportions as the trustee may, from time to time, direct.

§ 666. When certain pensions terminate; existing pensions continued. Pensions to widows shall terminate when the widow remarry and pensions to a child shall terminate whenever the child marry or arrive at the age of eighteen years. All existing pensions heretofore granted, payable out of the police life insurance fund, or any police pension fund of which the police commissioner is trustee, shall continue to be paid out of the police pension fund.

§ 667. Certificate of disability; rules as to pensions. No member shall be granted a pension on account of physical or mental disability, unless a certificate of so many of the police surgeons as the commissioner may require, setting forth the cause, nature and extent of the disability of the member, be filed in the department. The determination of the surgeons shall be final.

## CHAPTER XVI.

## FIRE DEPARTMENT.

Article 1. Organization and jurisdiction of the department.  
(§§ 680-693.)

2. Fires and their extinguishment. (§§ 700-704.)
3. Fire prevention. (§§ 710-720.)
4. Taxation of fire insurance agents. (§§ 725-728.)
5. Fire pension fund; life insurance fund. (§§ 730-737.)
6. Contributions to exempt or veteran volunteer firemen's associations. (§§ 740-744.)

## ARTICLE 1.

## ORGANIZATION AND JURISDICTION OF THE DEPARTMENT.

Section 680. Fire commissioner; deputies.

681. Jurisdiction.
682. Bureaus.
683. Composition of fire force.
684. Grades.
685. Qualifications of firemen.
686. Promotions.
687. Officers and employees of the telegraph service.
688. Telegraph and telephone system.
689. Right of entry upon private property.
690. Investigation of fires.
691. Municipal explosives commission.
692. Fire precautions.
693. Volunteer fire companies.

Section 680. Fire commissioner; deputies. The head of the department shall be the fire commissioner. He shall have charge of the property and control of the government and administration of the department and of the disposition and discipline of the members and employees. He shall appoint two deputies and a secretary. The commissioner shall be the treasurer of the department and shall give a bond, to be approved by and filed in the office of the comptroller, in the penal sum of twenty thousand dollars for the faithful performance of his duties as treasurer and accounting for all moneys that may come into his hands.

§ 681. Jurisdiction. The department shall have exclusive power and authority in relation to the extinguishment, prevention

and investigation of fires in the city and throughout the port of New York.

§ 682. Bureaus. There shall be in the department a fire bureau, which shall have charge of the extinguishment of fires and the protection of property, the head of which shall be the "fire chief;" a bureau of fire prevention, which shall have charge of the execution of all laws, ordinances and regulations for the prevention of fires, and the construction, installation and maintenance of auxiliary appliances and fire alarm and protective systems for the prevention and extinguishment of fires, the construction, maintenance and regulation of fire escapes and means of exit in case of fire, and the installation and maintenance of safety appliances, the head of which shall be the "chief of fire prevention;" a bureau of combustibles, which shall have charge of the execution of all laws, ordinances and regulations relating to the storage, sale, transportation and use of combustibles, chemicals and explosives, the head of which shall be the "inspector of combustibles;" two bureaus of fire investigation which shall have charge of the investigation of the origin and cause of fires and explosions, one in the boroughs of Manhattan, Bronx and Richmond, the other in the boroughs of Brooklyn and Queens, the head of each bureau to be a "fire marshal." A branch of the bureau of fire prevention shall be located in the borough of Brooklyn.

§ 683. Composition of fire force. The fire force shall consist of the following members and ranks:

Fire chief, deputy fire chiefs, battalion chiefs, captains, lieutenants, firemen, fire marshals, medical officers, one of whom shall be appointed chief medical officer, chaplain, pilots of fire boats, engineers of steamers, engineers, licensed marine firemen, and they shall constitute the uniformed force of the department.

§ 684. Grades. The commissioner may classify the members of each rank into grades, with the consent of the board of estimate and the concurrence of the board of aldermen. Except as otherwise provided herein, the grades now established shall continue until changed.

§ 685. Qualifications of firemen. No person shall be eligible for appointment to or membership in the fire force, who shall not be a citizen of the United States, who shall have been convicted of felony, who shall be unable to read and write understandingly the English language, or who shall not have resided within the state one year next preceding his appointment. No person shall

be appointed a member of the fire force who shall be at the time of the filing of his application for civil service examination over the age of thirty years. Preliminary to a permanent appointment as fireman there shall be a period of probation for such time as may be fixed by statute or civil service rule, and no person shall receive a permanent appointment who shall not have served the required probationary period, but service during probation shall constitute service in the uniformed force if succeeded by permanent appointment, and shall be included and counted in determining eligibility for advancement, promotion, retirement and pension.

§ 686. Promotions. Promotions of members of the uniformed force shall be made by the commissioner on the basis of seniority and meritorious service and superior capacity, as shown by competitive examination. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The commissioner shall transmit to the municipal civil service commission in advance of such examination the complete record in the rank and grade then held by each candidate for promotion, provided, however, that a candidate shall be credited in but one examination for the same acts of bravery or meritorious service, and shall not be charged with the same delinquencies in more than one examination or which have occurred more than three years prior to such examination.

§ 687. Officers and employees of the telegraph service. A member of the uniformed force in the telegraph service of the department shall not be liable to duty as a fireman or eligible to promotion except in the telegraph service.

§ 688. Telegraph and telephone system. The commissioner shall have power to locate, erect, control, operate, equip and maintain such system of telegraph and telephone, including signal and alarm system apparatus and stations, as may be required for the purposes of the department, and may make rules and regulations for the control and government of the same. Upon such terms and conditions as the board of estimate may prescribe, the commissioner may license and shall supervise and control privately owned and operated fire alarm or signal systems, connected with the system of the department, and authorize such connection.

§ 689. Right of entry upon private property. The commissioner and any duly authorized officer or employee of the department may at any time enter and examine any building, structure, vessel or place for the purpose of ascertaining whether a law or ordinance relating to the prevention of fires, the storage, sale or use of combustibles, chemicals or explosives, fire escapes, fire appliances, fire protective systems, fire exits, safety appliances, or fire dangers, or whether an order of the commissioner or head of a bureau has been or is being complied with or for investigating the cause or origin of any fire or explosion, or for serving a notice relating thereto.

§ 690. Investigation of fires. A fire marshal shall conduct an investigation as to each fire and suspected case of arson and incendiarism or explosion which may come to his notice, and for such purpose may take proof and testimony. He shall cause all testimony taken to be reduced to writing. He shall transmit the same to the commissioner, with his report, in writing, stating his conclusions thereon. He shall also report in writing to the police commissioner, the district attorney, the New York board of fire underwriters and the owners or other persons interested in the property affected, the facts and circumstances which, in his opinion, require the attention of any of said officers or persons. Whenever, as a result of his investigations, in his opinion, the facts warrant it, a fire marshal may cause the arrest of a person suspected of having committed a crime, and forthwith furnish to the proper district attorney the evidence relating to the commission of the alleged offense, the names of witnesses and such other facts as he deem pertinent.

§ 691. Municipal explosives commission. The municipal explosives commission as now constituted is continued. The appointive members of the commission shall hold office during the pleasure of the mayor. The regulations of the commission now existing, except such as relate exclusively to its organization or to the duties and discipline of its officers and employees, shall constitute a chapter of the code of ordinances.

§ 692. Fire precautions. The commissioner may detail in any theater or place of public amusement, while open to the public, members of the department in uniform to guard against fire, have charge of fire extinguishing apparatus and prevent obstructions of aisles, passageways and exits, and enforce all rules and regulations of the department. The department may make,

enforce rules and regulations for the prevention of fire and the protection of life in all places where the public congregate for any purpose.

§ 693. Volunteer fire companies. The commissioner shall, as rapidly as practical, extend the paid fire system throughout the boroughs of Queens and Richmond, and disband any volunteer fire company rendered unnecessary by such extension. The members of any such disbanded volunteer fire company then in active service shall, upon passing a noncompetitive examination for fitness, be placed at the head of any eligible list for appointment as firemen. Real or personal property of any such volunteer fire company deemed useful shall be purchased by him, with the approval of the board of estimate, for the department. Appropriations may be made annually for the maintenance and equipment of volunteer fire companies. The certificate of incorporation of any new volunteer fire company, in addition to the requirements provided by law, shall require the approval of the commissioner.

## ARTICLE 2.

### FIRES AND THEIR EXTINGUISHMENT.

Section 700. Right of way of fire department.

701. Command at fires; police to co-operate.

702. Destruction of buildings to prevent spread of fires.

703. Harbor fires.

704. Protection of firemen at fires.

Section 700. Right of way of fire department. The members of the department and of the insurance patrol, with their apparatus, shall, when on duty, have the right of way over all vehicles and other agencies for transportation, except those carrying the United States mail. The commissioner may authorize vehicles used for fire protection purposes to have the right of way over other vehicles and for such purpose to issue revocable licenses without charge.

§ 701. Command of fires; police to co-operate. During a fire the ranking officer of the force present shall have supreme command. Members of the police force shall perform such duties and render such assistance at fires as may be required by the officer of the fire department in command.

§ 702. Destruction of buildings to prevent spread of fire. When any building be on fire, the commissioner, fire chief, or officer in command, may order it, or any other building which he deem likely to take fire, or to convey fire to other buildings, to be removed or destroyed. An application may be made by any person having an interest in a building or its contents so removed or destroyed, to the supreme court, in the county in which the building was situated, for a precept for a jury to inquire into and assess the damages. Such precept shall be issued, directed, executed, returned and proceeded upon, and the proceedings thereon shall take effect, as nearly as may be, in the manner provided in the case of a writ of assessment of damages; and, the said inquiry and assessment having been confirmed by the court, the sums assessed by the jury shall be paid by the city to the respective persons in whose favor the jury shall have assessed the same, in full satisfaction of all demands of such persons respectively, by reason of the removal or destruction of such building or its contents; and the court before whom such process shall be returnable may compel the attendance of jurors and witnesses upon any such assessment of damages.

§ 703. Harbor fires. In case of fire occurring on any vessel upon the waters within or adjacent to the limits of the city, or in or upon any water front property or warehouse, building or other structure bordering upon or adjacent to such water front property, the department shall have full power and authority to extinguish the fire and to take the necessary precautions to prevent its communication to shipping, water front property, warehouses, buildings or other structures in the vicinity, and the officers in command may prohibit the approach, or remove from the proximity to such vessel, water front property, warehouse, building or other structure in danger therefrom any person or vessel, provided, that this section shall not limit the authority of the master or crew of a vessel on fire or in danger from fire to control the operation of the vessel, subject to the general jurisdiction of the department to protect life and property.

§ 704. Protection of firemen at fires. All hoistways, well holes and trap doors in, and all iron shutters upon any building or structure, shall be closed at the close of business each day by the person having use or control thereof. For a personal injury or loss of life resulting directly or indirectly from a failure to comply with such requirement, the person or persons so cul-

pable or negligent shall be liable for damages to an officer or employee injured, or in case of death therefrom, to his personal representatives.

### ARTICLE 3.

#### FIRE PREVENTION.

##### Section 710. Jurisdiction.

- 711. Dangerous places; nuisances.
- 712. Powers of chief of fire prevention.
- 713. Orders of chief of fire prevention.
- 714. Service of orders.
- 715. Bureau may execute its orders; restrictions.
- 716. Reimbursement for expenses; procedure.
- 717. Right of survey.
- 718. Survey; certiorari to review reports of surveys.
- 719. Expenses of surveys.
- 720. Violations of article; penalty.

Section 710. Jurisdiction. The chief of fire prevention, under the direction of the commissioner, shall enforce all laws and ordinances and make orders in respect of:

1. The prevention of fires;
2. Fire appliances and fire-protective systems, including automatic or other fire-alarm systems or fire-extinguishing equipment;
3. Fire escapes and adequacy of means of exit in case of fire except in tenement-houses, and safety appliances.

§ 711. Dangerous places; nuisances. The term "premises" in this article includes buildings, structures, inclosures, places and premises. Any premises or vessel which by reason of failure to comply with a statute or ordinance or order of the fire commissioner in respect to its construction, use, contents, number of persons therein, means of exit or escape from fire, fire-alarms, fire-protection, fire-extinguishing or life-saving apparatus is dangerous to life or property, is a nuisance within the meaning of this article.

§ 712. Powers of chief of fire prevention. The chief of fire prevention may, under the direction of the commissioner:

1. Cause the examination of a building, structure, vessel, inclosure, place or premises, or any part or contents thereof;
2. Direct in writing the abatement of a nuisance;



3. Cause a vessel moored or anchored at or near a dock or pier and on fire or in danger of catching fire, or dangerous to shipping or property to be moved and secured as designated by him;

4. Enforce his orders and directions.

The chief of fire prevention shall, under the direction of the fire commissioner, direct the establishment of fire drills and the employment of competent persons to care for, operate and constantly supervise auxiliary fire apparatus and safety appliances and instruct employees in the use thereof;

§ 713. Orders of chief of fire prevention. An order of the chief of fire prevention shall specify a period, not less than forty-eight hours, for compliance therewith; but the commissioner may, on the written certificate of the fire chief and chief of fire prevention that imminent peril exists, direct the temporary suspension of the use or occupation of or access to premises or a vessel until the nuisance be abated.

§ 714. Service of orders. Service of an order issued pursuant to this article may be made by delivering a copy thereof, personally, to the owner or occupant of the premises, or to the owner or master of the vessel regarding which the order had been issued; or if the owner, master or occupant cannot be found, or is beyond the territorial limits of the city, service may be made by conspicuously posting a copy thereof upon such premises near the main entrance thereof, if any, or upon such vessel, and at the same time mailing, postpaid, a copy of the order to such owner, master or occupant addressed to his last known residence or place of business. It shall not be necessary to designate the owner, master or occupant by name in such order, but the premises or vessel affected by the order shall be designated so that the same may be readily identified.

§ 715. Bureau may execute its orders; restrictions. Upon the refusal or neglect of the owner or occupant of the premises or owner or master of the vessel designated in an order to comply with an order issued as aforesaid, the bureau may execute such order with its own employees and means, or through other agencies, as the commissioner may direct, subject to the right of the owner, master or occupant to demand a survey. This section shall not authorize the chief of fire prevention or the commissioner to supply any deficiency in the fire-alarm, fire-extinguishing or fire-escape equipment, but the commissioner may prohibit the occupancy or use of such premises or vessels, or public access thereto, until the

order of the department be complied with, or be stayed by survey proceedings.

§ 716. Reimbursement for expenses; procedure. The expense of executing any order of the department shall be a joint and several personal charge against the owners or part owners and occupants of the premises or vessel to which the order relates; and also against every person by law or contract bound to do that which the order require, and said expense shall also be a lien on all rent and compensation due, or to grow due, for the use of such vessel or premises.

§ 717. Right to survey. The owner, lessee or occupant of any premises or vessel affected by an order of the department, or his agent, may make written demand upon the commissioner for a survey thereof to determine whether such order is valid and reasonable, which demand must be served upon the commissioner or one of his deputies, or an officer of the uniformed force of the department, if personal service cannot be made upon the commissioner or one of his deputies, within forty-eight hours, Sundays and holidays excluded, after service of the order referred to in the demand. A demand for survey served upon a deputy commissioner or an officer of the uniformed force of the department shall be forthwith transmitted to the commissioner. Upon receipt of a demand the commissioner shall immediately issue an order for the same, naming therein three persons to act as surveyors, one of whom shall be an officer or employee of the bureau of fire prevention; another shall be an architect or builder of at least ten years' experience and the third a person to be chosen from a list to be furnished by the board of fire underwriters, or provided by the commissioner, with the approval of the mayor, if the board of fire underwriters do not furnish such list.

The date and hour when the survey will be made shall be stated in the order therefor. A copy of such order shall be served upon the person demanding the survey at least twenty-four hours before the hour fixed for the survey, and he shall have the right to be present and be heard in person, or by agent or attorney. Such copy may be served as hereinbefore provided for the service of orders of the department.

§ 718. Survey; certiorari to review reports of surveys. The surveyors shall meet at the time and place fixed in the order and survey the premises or vessel referred to in such order and consider the merits of the order directing the abatement of the nuisance. After such survey and consideration the surveyors shall

prepare and sign a report of their proceedings and determination, which shall be filed in the department, and a copy thereof shall be given upon application to the person demanding the survey. The determination of the surveyors shall be final and conclusive.

§ 719. Expenses of surveys. Each person, other than an officer or employee of the department designated to act as a surveyor, pursuant to the provisions of this article, shall be paid out of the contingent fund of the department the sum of twenty-five dollars for each survey in which he participates, upon the filing of the report thereof in the department. The city shall be entitled to reimbursement for all expenses incident to a survey if it be held that the order of the commissioner was valid and reasonable.

In case the demand for a survey be made by a lessee or occupant the commissioner may require, as a condition precedent to the ordering of a survey, that such lessee or occupant deposit with the department the sum of one hundred dollars to indemnify the city for the expenses of the survey, which sum shall be returned to the depositor in case it be held that the order was invalid or unreasonable. No demand for a survey by a lessee or occupant shall have any force or effect unless such deposit to indemnify the department for the expenses of the survey, if required, shall have been made.

The city may enforce reimbursement for the expenses of a survey against an owner of real property, who has demanded a survey, and shall have a lien for such expenses upon the property affected by such order, which shall have priority over all other liens or incumbrances except taxes and assessments. Such lien shall become effective, continue and be enforced in the manner and by the proceedings provided for liens for expenses of executing orders of the health department.

§ 720. Violations of article; penalty. A person failing to comply with any order or direction of the chief of fire prevention or fire commissioner, made pursuant to this article, or with any provisions of this article, shall forfeit the sum of two hundred and fifty dollars for each offense, recoverable in an action which may be brought by and in the name of the commissioner in behalf of the city.

## ARTICLE 4.

## TAXATION OF FIRE INSURANCE AGENTS.

Section 725. Tax upon fire insurance agents.

726. Account of premiums by agent.

727. Undertaking; penalty.

728. Place of business to be reported.

Section 725. Tax upon fire insurance agents. There shall be paid to the fire commissioner annually, on or before the first day of February, by every agent for a corporation, association or individual, not incorporated under the laws of this state, insuring against loss by fire in the city, two per centum upon the amount of all premiums, which during the year ending on the next preceding first day of September shall have been received by such agent or by any other person for him.

§ 726. Account of premiums by agent. Each such agent shall annually, on the first day of February, account to the fire commissioner, on oath, for all such premiums.

§ 727. Undertaking; penalty. No person shall act as such agent, until he shall have executed and delivered to the fire commissioner an undertaking, with such sureties as the commissioner shall approve conditioned upon the faithful accounting for all premiums received by him, or by any other person for him, and the payment of the tax thereon. When the commissioner deem the security on such undertaking insufficient, he may require the undertaking to be renewed, but not oftener than once in each year. Every person who shall act as such agent, without having executed and delivered such undertaking or renewal thereof, if required, shall, for each offense, forfeit one thousand dollars, for the use of the fire department. Every such agent who shall, for ten days after demand by the commissioner therefor, fail to render the account of premiums and pay the tax thereon, shall forfeit for the use of the department fifty dollars, and twenty-five dollars in addition for every day thereafter during default, which penalties shall be cumulative.

§ 728. Place of business to be reported. Every such agent shall annually, on the first day of February, or within ten days thereafter, and as often as he shall change his place of business, report in writing to the fire commissioner the street and number of his place of business as such agent, and the name, residence and principal place of business of each such corporation, asso-

ciation or individual for whom he is agent. For each failure to so report, the agent shall forfeit the sum of one thousand dollars for the use of the department.

## ARTICLE 5.

### FIRE INSURANCE FUND; LIFE INSURANCE FUND.

Section 730. Fire pension fund; commissioner, trustee of.

731. Funds to be paid trustee; exemption from execution and process.

732. Composition of fund.

733. Appropriation for deficit.

734. Retiring members of the department; pensions.

735. Pensions to dependents.

736. Pensions under former relief funds continued.

737. Life insurance fund.

Section 730. Fire pension fund; commissioner, trustee of. The commissioner shall be the trustee and treasurer of the fire pension fund. He shall, before entering upon his duties, give a bond in the penal sum of one hundred thousand dollars, to be approved by and filed with the comptroller, conditioned upon the faithful discharge of his duties and the accounting for all moneys and property which shall come into his hands. He shall have charge of, invest and administer the fund. He shall receive all moneys payable to the credit of the fund and deposit the same in banks or trust companies or invest the same in bond and mortgage on improved property worth twice the amount of the loan, or in securities in which savings banks may invest. He may make all necessary contracts and take all necessary action for the proper investment and protection of the fund. He shall make payments from the fund of pensions now charged thereon, or any part thereof, and shall be the legal successor of the trustee or trustees of any fire department relief or pension fund heretofore existing within the limits of the city and now constituting a part of the fire pension fund. He may establish rules and regulations for the disposition, investment, preservation and administration of the fund. No payments shall be allowed or made by the trustee from the fund as a reward, gratuity or compensation to any person for salary or services rendered to or for the trustee. On or before the first day of February of each year the trustee

shall make a verified report, as of the thirty-first day of December next preceding, to the mayor and board of aldermen, of the condition of the fund and of his proceedings as such trustee, containing a statement of all receipts and disbursements on account of the fund, together with the name and residence of and the amount paid to each beneficiary for or on account of the fund. There shall be an auditing committee, consisting of three members, to be appointed by the mayor, as follows: Two members to be selected from among the officers and members of the uniformed force of the department and one member to be selected from the retired members of the department. Such committee shall, on or before the first day of March of each year, examine the condition of the fund and audit the account of the trustee.

§ 731. Funds to be paid trustee; exemption from execution and process. All moneys, bonds, investments, securities, revenues and incomes belonging to the fire pension fund shall be paid over and delivered to the commissioner, as trustee. The moneys, securities and effects of the fire pension fund and all pensions granted and payable from the fund shall be exempt from execution and from all process and proceedings to enjoin the payment or disposition of or to recover the same by or on behalf of any creditor or claimant against any beneficiary of the fund. Every person who knowingly or willfully makes or procures the making or presentation of any false or fraudulent affidavit concerning any claim for pension or payment thereof shall forfeit a sum not exceeding two hundred and fifty dollars, to be sued for and recovered by and in the name of the trustee, and, when recovered, be paid over to and become a part of the fire pension fund.

§ 732. Composition of fund. The fire pension fund shall consist of:

1. The capital, interest, income, dividends, cash deposits, securities and credits formerly or now belonging to the fire department relief or pension funds in any of the municipal corporations, or parts thereof, heretofore consolidated to form the city of New York.

2. All forfeitures and fines imposed by the fire commissioner, upon any member of the uniformed force.

3. All rewards, in money, fees, gifts, testimonials and emoluments paid or given for extraordinary services by a member of the uniformed force, except those allowed by the commissioner

to be retained by a member, and those given to endow a medal or other permanent or competitive reward.

4. All fines, forfeitures and penalties collected for the violation of any law, ordinance, regulation or order relating to the protection of firemen at fires, the prevention of fires and explosions, and the storage, sale and use of combustible materials, and fees received for licenses to sell petroleum products, collected in the boroughs of Manhattan, Brooklyn or Bronx, and forty-five per centum of such fines, forfeitures, penalties and license fees collected in the boroughs of Queens and Richmond.

5. All proceeds of sales of condemned horses and other personal property of the department.

6. All moneys, compensation or salary forfeited, deducted or withheld from any member of the uniformed force, for or on account of absence from duty, lost time, sickness or other disability, to be paid monthly to the treasurer of the fund.

7. Ten per centum annually of all excise taxes belonging to the city upon the business of trafficking in liquors received on account of licenses in the boroughs of Manhattan, Brooklyn and Bronx, and four and one-half per centum annually of such excise taxes received on account of licenses in the boroughs of Queens and Richmond, said excise taxes to be paid to the commissioner as treasurer of the fund.

8. Forty-five per centum of the moneys received by the commissioner from taxes upon the agents of foreign fire insurance companies.

9. All gifts or bequests which may be made to such fund.

10. All moneys collected and payable to the fund on account of violations of the agricultural law, or other provision of statute.

11. All moneys appropriated for the benefit of the fund.

§ 733. Appropriation for deficit. If the pension fund or part thereof applicable to the payment of pensions be insufficient for such purpose, the commissioner shall each year, at the time of making up the departmental estimate, prepare a full and detailed statement of the fund and estimated receipts thereof and the payments to be made therefrom during the succeeding calendar year, and present the same to the board of estimate; and an appropriation shall be annually made for such estimated deficit, if any.

§ 734. Retiring members of the department; pensions. The commissioner may, in his discretion, retire from service in the department, or relieve from fire service a member of the uniformed

force, found upon examination by a board of medical officers, designated by the commissioner, disqualified, physically or mentally, for the performance of duty; and grant such member an annual allowance as pension in case of total disqualification, or as compensation in case of partial disability; and the amount of such allowance shall be determined as follows: In case of total permanent disability, at any time, caused by injuries received in the actual performance of duty, or which may occur after ten years' active and continuous service, the amount of pension shall be one-half of the annual salary of such member at the date of retirement. But should permanent disability caused by injuries received in the actual performance of duty disqualify him only from performing active fire duty, he shall be employed at the salary received when such disability occurred in a position not requiring active fire service. In case of total permanent disability not caused by injuries received in the actual performance of duty, or occurring before the expiration of ten years' active and continuous service, the amount of annual pension shall be one-third of the annual salary of such member at the date of retirement. In case of partial permanent disability, caused by injuries received in the actual performance of duty or occurring after ten years' active and continuous service, the member shall be relieved from fire service, but shall remain a member of the uniformed force, subject to its rules and to the performance of such duty as a board of medical officers certify him qualified to perform; and the allowance shall be one-half of his annual salary at the date of his being relieved. In case of partial disability, not caused by injuries received in the actual performance of duty or occurring before ten years' active and continuous fire service, the member shall be relieved from fire service, but shall remain a member of the uniformed force, subject to its rules, and to the performance of such duty as a board of medical officers certify him qualified to perform, and the allowance shall be one-third of his annual salary at the date of being relieved. A member of the uniformed force who shall have performed duty for twenty years or more, (a) upon his own application, in writing, or (b) upon a certificate of a board of medical officers showing that he is permanently disabled, physically or mentally, so as to be unfit for duty, or (c) who shall have attained the age of sixty-five years, shall be retired and dismissed from the force and granted an annual



pension for life equal to one-half his salary at the time of retirement.

§ 735. Pensions to dependents. The commissioner shall grant a pension to the widow, child, children and dependent parent or parents of a deceased member, if his death occur during his service, or after retirement from service, provided, that the division of such pension among such dependents shall, from time to time, be determined by the commissioner according to the circumstances of each case, and further provided, that not more than three hundred dollars be paid in any one year to any one dependent, except a widow, of such member. In case a regular or probationary member of the uniformed force shall have been killed in the performance of duty, or if, as the immediate effect of injuries received, disease causing death, or death shall have ensued, the commissioner shall grant to the widow an annual pension equal in amount to one-half of his salary at the date of decease; and if one-half such salary do not equal six hundred dollars, the commissioner shall grant to the widow an annual pension of six hundred dollars; and if there be no widow, but a child or children under the age of eighteen, or dependent parent or parents, the commissioner shall grant to such child or children, dependent parent or parents, an annual pension equal in amount to one-half the salary of the member at the date of his death. The amount of a pension to a widow shall in no event exceed one thousand dollars, and shall cease upon her remarriage. The amount of pension paid any one child, or dependent parent, shall not exceed the sum of five hundred dollars, and such payment shall cease upon the marriage of such child, or upon his reaching the age of eighteen years. A pension to dependents may be divided among them in the discretion of the commissioner.

§ 736. Pensions under former relief funds continued. The widows and orphans and retired members of the former Brooklyn fire department, or of any other fire department of any of the municipal and public corporations or parts thereof consolidated to form the city, shall be entitled to receive from the pension fund the amounts which they were respectively entitled to receive on the thirty-first day of December, eighteen hundred and ninety-seven, from any fire department pension or relief fund theretofore existing.

§ 737. Life insurance fund. The commissioner shall be the trustee and treasurer of the life insurance fund of the depart-

ment. The life insurance fund shall consist of all moneys that now belong to the department life insurance fund, and the former Brooklyn fire department widows and orphans' relief fund; and all persons who shall have paid into the said funds, and who shall continue to pay into the life insurance fund, shall receive the benefits of said fund as provided in this section. There shall be deducted from the monthly salary of each member of the department, and from the monthly pension of retired members, and from the compensation of such other employees as shall heretofore have availed themselves of this provision, until the amount of said fund shall equal the sum of twenty-five thousand dollars, the sum of one dollar monthly, which shall be received and deposited by the treasurer of the fire pension fund to the credit of the department life insurance fund, in a bank or trust company to be selected by him. The treasurer shall make, on oath, a semi-annual report of the condition of the fund, containing a statement of all receipts and disbursements, together with names of all beneficiaries and the amount paid to each, and file said report in the office of the comptroller. When the amount of the fund equal the sum of twenty-five thousand dollars, only such assessments shall be made as may be necessary to maintain the fund at the sum of twenty-five thousand dollars. On the death of a member or employee or pensioned or retired member, who shall have availed himself of this provision, there shall be paid from the fund to his widow, or, if there be no widow, then to his legal representatives, the sum of one thousand dollars. If by reason of the number of deaths, the aggregate amount of money provided to be assessed and collected prove inadequate to make the required payments, the monthly assessment may, in the discretion of the trustee, be increased to an amount not exceeding two dollars. Only members of the uniformed force shall hereafter be eligible to participate in the fund.

## ARTICLE 6.

### CONTRIBUTIONS TO EXEMPT OR VETERAN VOLUNTEER FIREMEN'S ASSOCIATIONS.

Section 740. Payments from tax on fire insurance agents.

741. Payments from other revenues.

742. Apportionment of contributions.

743. Report of trustees of beneficiary association.

744. Certain payments prohibited.

Section 740. Payments from tax on fire insurance agents. The commissioner shall, until the seventeenth day of January, nineteen hundred and seventeen, pay over, quarterly, the moneys received as taxes from the agents of corporations, associations and individuals not incorporated under the laws of this state, on account of premiums received for insurance of property located in the several divisions of the city, as follows:

1. In all boroughs: Forty-five per centum to the fire pension fund of the New York fire department; ten per centum to the treasurer of the firemen's association of the state of New York for the endowment and maintenance of the volunteer firemen's home at Hudson.

2. In the borough of Manhattan: Forty-five per centum to "The Trustees of the Exempt Firemen's Benevolent Fund of the City of New York."

3. In the borough of Bronx: In the first ward, forty-five per centum to "The Exempt Firemen's Benevolent Fund Association of the Twenty-third and Twenty-fourth Wards of the City of New York (late town of Morrisania, in the county of Westchester) in the County of New York;" in the second ward, forty-five per centum to the "Westchester Exempt Firemen's Association of the City of New York."

4. In the borough of Brooklyn: Twenty per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the western district of the late city of Brooklyn; thirteen and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the eastern district of the late city of Brooklyn; three and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of New Lots; two and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of Flatbush; two and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of Gravesend; two per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of New Utrecht; one and two-thirds per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of Flatlands.

5. In the borough of Richmond: Forty-five per centum to the

treasurers of the exempt or veteran volunteer firemen's associations now existing in the borough of Richmond.

6. In the borough of Queens: Forty-five per centum to the treasurers of the exempt or veteran volunteer firemen's associations now existing in the borough of Queens.

§ 741. Payments from other revenues. From moneys collected in the boroughs of Queens and Richmond, as fines, forfeitures and penalties for the violation of any law, ordinance, regulation or order, relating to the protection of firemen at fires, the prevention of fires and explosions, and the storage, sale and use of combustible materials, and fees for licenses to sell petroleum products, there shall be paid quarterly ten per centum to the treasurer of the firemen's association of the state of New York for the endowment and maintenance of the volunteer firemen's home at Hudson; from such moneys collected in the borough of Queens, forty-five per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and one; from such moneys collected in the borough of Richmond, forty-five per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and one. There shall be paid annually from excise taxes belonging to the city upon the business of trafficking in liquors received on account of licenses in the boroughs of Queens and Richmond, one per centum to the treasurer of the firemen's association of the state of New York for the endowment and maintenance of the volunteer firemen's home at Hudson; from such excise taxes received on account of licenses in the borough of Queens, four and one-half per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and one; from such excise taxes received on account of licenses in the borough of Richmond, four and one-half per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and one. There shall be paid to the various treasurers of the volunteer fire department benevolent funds of the former city of Brooklyn and town of New Lots such amount as may be annually appropriated therefor, which shall not exceed the sum of five thousand dollars; and to the treasurers of the volunteer fire department benevolent funds of the former volunteer fire depart-

ments of the former towns of Flatbush, New Utrecht, Gravesend and Flatlands such amount as shall be annually appropriated therefor, which shall not exceed the sum of five thousand dollars and shall be paid in equal amounts to said funds.

§ 742. Apportionment of contributions. Except as herein otherwise expressly provided, moneys provided to be paid to the treasurers of exempt or veteran volunteer firemen's associations in a borough shall be apportioned by the comptroller among such associations in proportion to the number of exempt and of honorably discharged volunteer firemen, who shall be actual bona fide members of such associations on the first day of January next preceding such apportionment.

§ 743. Report of trustees of beneficiary association. The trustees of each association to which moneys are paid, under the provisions of this article, shall annually report on oath to the fire commissioner or comptroller, in detail, as to the expenditure of said moneys. Upon failure to report, the fire commissioner or comptroller may withhold payment of such moneys from such association, and pay the same to the fire pension fund of the New York fire department.

§ 744. Certain payments prohibited. No trustee, officer or agent of an exempt or veteran volunteer firemen's association shall grant or give to any beneficiary, or other person, any greater sum than shall have been determined by the board of trustees of such association, after due investigation of the circumstances in each case; and all payments of pensions or donations shall be made by the treasurer upon order of the trustees, and for all such payments the treasurer shall take and keep on file receipts from the beneficiaries.

## CHAPTER XVII.

### HEALTH DEPARTMENT.

- Article 1. Organization, administration, authority, duties and powers of department. (§§ 750-763.)
2. Enforcement of orders and ordinances. (§§ 770-780.)
  3. Pension fund. (§§ 785-790.)

## ARTICLE 1.

ORGANIZATION, ADMINISTRATION, AUTHORITY, DUTIES AND POWERS  
OF DEPARTMENT.

Section 750. Head of the department.

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752. Further powers.

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758. Marriages, births and deaths; record of.

759. Registration of births not previously recorded.

760. Transcripts of records; fees.

761. Coroners' returns.

762. Bureaus and offices.

763. Certain officers, peace officers.

Section 750. Head of the department. The head of the department shall be the board of health, which shall consist of the health commissioner, the police commissioner and the health officer of the port. The health commissioner shall be appointed by the mayor. He shall be the president of the board and the chief executive officer of the department. The board shall appoint a secretary, a sanitary superintendent and a registrar of records. In case of the absence or disability of the commissioner the sanitary superintendent shall possess his powers and perform his duties except with respect to appointment or removal.

§ 751. Jurisdiction. The department shall be the local board of health. The powers and duties of the department shall extend over the city and throughout the port of New York; but nothing herein contained shall be construed to limit or affect the powers and duties of the quarantine commissioners or the health officer of the port. The department shall:

1. Enforce the public health law;
2. Abate all nuisances detrimental to public health or dangerous to human life, with or without action at law or in equity;
3. Enforce all laws of the state relative to the preservation, care, promotion or protection of life and health;

4. Cause the vacation of any building unfit for human habitation or dangerous to life or health;

5. Enforce all laws relative to the use or sale of poisonous, unwholesome, deleterious, impure, misbranded or adulterated drugs, medicines or food; all foul or infected merchandise or articles, and all animals afflicted with communicable diseases; and condemn, seize and destroy the same;

6. Take all steps necessary for the sanitary supervision and protection of the water supply of the city, and the sources thereof:

7. Use all reasonable means for ascertaining the existence and cause of disease or peril to life or health, and for averting the same;

8. Send promptly all proper information in its possession to the health authorities of the state and of any division thereof requesting the same;

9. Gather such information and preserve such record of facts relating to births, marriages, deaths, disease and health as may be useful in the discharge of its duties, and as may tend to public interest and the promotion of health or the security of life;

10. Co-operate with the health officer of the port and the quarantine commissioners to prevent the spread of disease, and to protect life and promote health;

11. Cause all or part of any cargo, matter or thing within the city that may be putrid or otherwise dangerous to public health to be destroyed or removed;

12. Contract for the sale and removal of offensive refuse matter and in case of emergency, with the approval of the mayor, to contract therefor for a period not exceeding thirty days without advertising and public bidding;

13. Order and enforce the repair of buildings, structures and houses, other than tenement-houses, where necessary for the public health; regulate and control all public markets, and stands or stalls in and around the same, so far as relates to the cleanliness, ventilation and drainage;

14. Enter, examine and survey all grounds, erections, vehicles, structures, apartments, buildings and every part thereof, and places, including vessels of all kinds, and all cellars, sewers, passages and excavations, and inspect the safety and sanitary condition and make plans, drawings and descriptions thereof, and make and publish a report of the sanitary condition, and the result of the inspection of any place, matter or things so inspected;

15. Cause any street or passage to be fenced or otherwise inclosed if it deem the public safety to require it, and adopt suitable measures for preventing all persons from going to any part of the city so inclosed;

16. Forbid all communication with a house or family infected with any contagious, infectious or pestilential disease except by physicians, nurses or messengers to carry necessary advice, medicines and provisions;

17. Adopt prompt and effectual means for preventing communication between any part of the city infected with a disease of a pestilential, infectious or contagious character and other parts of the city.

18. Regulate and license the practice of midwifery.

§ 752. Further powers. Subject to the provisions of this act, the department may:

1. Grant to masters of vessels bills of health certifying to the condition of the city in respect to health;

2. Remove or cause to be removed to a proper place designated by it any person sick with a contagious, pestilential or infectious disease; and designate, provide and pay for the use of places for such purpose, and for their support, unless they are entitled to support from the commissioners of emigration;

3. Erect, establish, maintain and furnish, in such places within or without the city as may be authorized or designated for such purposes, buildings and hospitals for the observation, detention, care and treatment of persons suffering from or who shall have been exposed to contagious, infectious or pestilential diseases;

4. Take possession of and occupy for temporary hospitals any buildings in the city during the prevalence of an epidemic, and pay just compensation for the property taken;

5. Cause proper care and attendance to be given to any sick person, when it appears to the department that the public health require such person to receive special medical care and attendance, or that such person is so poor as to be unable to procure it for himself;

6. Make reasonable regulations concerning the publicity of any papers, files, reports, records and proceedings of the department;

7. Provide for light, ventilation and sanitary inspection and regulation of lodging-houses, and the premises connected therewith;

8. Order the removal of any vessel from which, in the judgment of the board, any infectious, contagious or pestilential disease may be brought into the city or communicated to its inhabitants;



9. Add to, revise, alter or amend the sanitary code;
10. Require reports and information of such facts, at such times and in such forms as it may prescribe, relative to the safety of life and promotion of health, from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools, and from the managers, principals and officers thereof; and from all other public institutions, their officers and managers, and from the proprietors, managers, lessees and occupants of all theaters and other places of public resort or amusement;
11. Determine what diseases are contagious, infectious or pestilential;
12. Employ in the bureau of sanitation a corps of physicians to vaccinate;
13. Collect and preserve pure vaccine lymph or virus and produce diphtheria antitoxine and other antitoxines and dispose of the same;
14. Order a borough president to construct sewers.

§ 753. Hospitals. The department shall have charge and control of the hospitals for contagious diseases at the foot of East Sixteenth street, borough of Manhattan, the hospital for contagious diseases at Flatbush, borough of Brooklyn, the Riverside sanitarium for tuberculosis on North Brothers island, the Otisville sanitarium for tuberculosis at Otisville and the several tuberculosis clinics without hospital provision and such other hospitals, sanatoria and clinics as may be designated by the sinking fund commission. The department shall have exclusive charge and control of all municipal hospitals for the observation and treatment of Asiatic cholera, plague, typhus fever, scarlet fever, yellow fever, measles, diphtheria and smallpox, but this shall not be construed to require the board to remove any person suffering from or who has been exposed to any of such diseases to the hospital therefor, unless in its judgment such removal be necessary for the protection of the public health. With the concurrence in writing of the department or departments affected, and of the sinking fund commission, after public hearing, designate such hospitals established for or actually caring for persons suffering from or exposed to a contagious, infectious or pestilential disease, as in its judgment should, for the protection of the public health, be under its exclusive charge and control; and such hospitals and their employees shall thereupon be transferred to the department of health. The department of health, with the concurrence in

writing of the department or departments affected, may designate a hospital under its jurisdiction for the observation and treatment of an infectious disease, other than Asiatic cholera, plague, typhus fever, scarlet fever, yellow fever, measles, diphtheria and smallpox, as one which may, without danger to public health, be transferred to the jurisdiction of another department authorized to maintain public hospitals, and such designation, if approved by the sinking fund commission, after a public hearing, shall take effect, and the hospital so designated shall thereupon be transferred to such other department. A department or hospital corporation maintaining a hospital or ward for the treatment of persons having a contagious, infectious or pestilential disease may admit to such hospital or ward any person applying for admission thereto, and certified by the physicians of the hospital to have the disease for which the hospital or ward is maintained, and such admission shall be reported immediately by the department or hospital corporation to the department of health. The discharge of such person shall also be reported forthwith to the department of health. No person shall remove any person sick with infectious, contagious or pestilential disease from any vessel or other place in the city without a written permit from the board of health.

§ 754. Vaccine lymph; virus antitoxines. The board may distribute vaccine lymph or virus and antitoxines among the poor of the city as in its judgment the public health require and may sell the surplus. The proceeds of such sales shall be paid to the chamberlain and be kept as a separate fund and payments therefrom shall be made by the chamberlain, without audit, approval or warrant of other authority, upon the order of the board for defraying the expense of collecting and preserving pure vaccine lymph or virus, the production of antitoxines and the distribution thereof among the poor.

§ 755. Sanitary code. The sanitary code is continued in full force and effect, subject to revision, alteration or amendment by the department; but nothing contained in it shall prohibit the storage of fertilizers, the keeping or slaughtering of fowls, cattle and other domestic animals on premises in the rural parts of the city, or the driving of such animals on the country roads therein. An amendment to the sanitary code shall not take effect until a copy thereof, certified by the secretary of the department, shall be filed with the city clerk.

§ 756. Duty in case of impending pestilence. In the presence

of great and imminent peril to the public health by reason of impending pestilence, the department shall, upon the consent in writing of at least two of its members and of the mayor, take such measures for the preservation of the public health, in addition to those otherwise authorized by law, and make such expenditures, without reference to any appropriation, as it may determine.

§ 757. Quarantine. When the department has reason to believe that a pestilential, contagious or infectious disease actually exists in a given place outside of the city, it may issue a proclamation declaring the place to be infected, within the meaning of the health laws of the state, and fixing the period during which such place shall be deemed to be infected, and said proclamation shall be published in one or more of the daily newspapers of the city. The department may prohibit or regulate the intercourse by land or water between the city and such place; and may direct that all persons coming into the city contrary to its prohibitions or regulations shall be apprehended and conveyed to the vessel or place whence they came; or, if sick, that they be conveyed to such place as the department may direct. After such proclamation shall have been issued, all vessels arriving in the port of New York from such infected place shall be subject to a quarantine of at least thirty days, or during the period fixed in the proclamation, and shall, together with their officers, crews, passengers and cargoes, be subject to all the provisions, regulations and penalties in relation to vessels subject to quarantine.

§ 758. Marriages, births and deaths; record of. The department shall keep a record of the births, marriages and deaths filed with it and the time when filed; the births shall be numbered and recorded in the order in which they are received by it; and the record of births shall state the place and date of birth, the name, sex and color of the child, the names, residence, birthplaces and ages of the parents, occupation of father and maiden name of mother, as fully as they have been received. The marriages shall be numbered and recorded in the order in which they are received by the department; and the record thereof shall state the date of marriage, name, residence and official station, if any, of the persons, by whom married, the names and surnames of the parties, age, color, residence, birthplace and number of marriage of each; whether single or widowed, father's name and mother's maiden name, and maiden name of the bride if a widow. The deaths shall be likewise numbered and recorded; and the record thereof

shall state, as far as the same is reported, the date of decease, name and surname, whether single, married or widowed, age, place of birth, place of death, occupation, names and birthplaces of the parents, disease, cause of death, color and last place of residence of such deceased person.

§ 759. Registration of births not previously recorded. The births of the children of actual residents of the city, which may have occurred during the temporary absence of the parents of such children from the city, and the birth of children which failed of record through the neglect of the physician or other medical attendant present at such birth, may be recorded in the bureau of records of the department, in a special book, to be kept for such purpose, upon the application therefor by the parents or guardians of such children. Such application shall be made to the commissioner, and shall be accompanied by a certificate of the physician or medical attendant at such birth, and personally cognizant thereof, together with the affidavit of at least two citizens, certifying to their knowledge of the facts, and that the physician or attendant making such certificate is a reputable person in good standing in the community in which he or she may reside. No change or alteration shall be made in any record of the department without the approval of the commissioner.

§ 760. Transcripts of records; fees. A transcript of any record may, in the discretion of the department, be given to a parent or next of kin of any person whose birth, marriage or death is recorded, but no transcript of a false or fraudulent return made to the department, nor of an entry thereof, shall be given; but the record thereof shall be canceled upon due proof of the facts to the department. Transcripts of such records, when required, shall be in such form as the department may prescribe, upon payment of the usual fees for copies of records. The department shall receive no fees for the duties performed under the two preceding sections.

§ 761. Coroners' returns. Coroners shall, as directed by the department, report all post-mortem inquests, or viewing of dead bodies. Every coroner shall, immediately upon notification and before holding an inquest, transmit to the department written notice thereof, in which shall be stated every particular then known to him as to the body, the place where it is and the reported cause of death. The department may, as soon as the coroner's jury or physician shall have viewed the dead body, and

an autopsy thereof shall have been made, order its immediate burial or its immediate removal from the place of death to another place for inquest.

§ 762. Bureaus and offices. There shall be in the department, in addition to such other bureaus and offices as may be established therein:

1. A bureau of sanitation, the chief officer of which shall be the sanitary superintendent, who, at the time of his appointment, shall have been for at least ten years a practicing physician, and for three years a resident of the city;

2. A bureau of records, the chief officer of which shall be the registrar of records;

There shall be an office of each bureau of the department in each borough, in which shall be preserved the departmental records, files, reports and papers pertaining to the borough. Cultures brought to the office in the borough of Brooklyn by physicians practicing in the boroughs of Brooklyn and Queens shall be there examined and tested.

§ 763. Certain officers, peace officers. The members of the board, the sanitary superintendent, the assistant sanitary superintendents and inspectors of the department shall be peace officers with respect to the prevention of violations of statute, sanitary code or ordinances relating to public health.

## ARTICLE 2.

### ENFORCEMENT OF ORDERS AND ORDINANCES.

Section 770. Presumption as to proceedings; orders of the department.

771. Service of orders.

772. Sanitary code health law; penalties; actions.

773. Personal liability for expenses; lien on rent or compensation.

774. Suit for expenses.

775. Lien for expense of executing orders; enforcement.

776. Special revenue bonds.

777. Suits to abate nuisances.

778. Infected and uninhabitable houses.

779. Proceedings for condemnation.

780. Nuisance defined.

Section 770. Presumption as to proceedings; orders of the department. The actions, proceedings, authority and orders of the department shall be regarded as in their nature judicial. The department may execute orders with its own officers and agents, and with its own means.

§ 771. Service of orders. Service of an order of the department shall be deemed sufficient, if made upon a manager, agent or person interested in or an officer charged with a duty relating to the business, property, matter or thing, or the nuisance or abuse to which the order relates. If an order relate to a building or premises, used or intended to be used as a residence or lodging place, or as a tenement house, service of the order on an agent for the rental or collection of rent of such building or premises shall have the same effect and validity as if made upon the principal and upon the owners, lessees, tenants and occupants of such buildings or premises.

§ 772. Sanitary code health law; penalties; actions. The sanitary code shall be a health law. In addition to the punishment provided by the penal law, any person who violates or fails to comply with any provision of a health law or disobeys an order or regulation of the department shall be liable to a penalty of not to exceed two hundred and fifty dollars, to be recovered in a civil action. A civil action for the recovery of penalties shall be brought by the department in the name of the city and may be brought in any court in the city having jurisdiction to an amount as large as that demanded in the action. No fees shall be charged by any court, magistrate or clerk for the issue of any paper or process, or for the performance of any duty in any such action. If judgment be rendered for the plaintiff in any amount, costs shall also be recovered, without reference to the amount of the recovery, provided payment shall have been demanded before suit, and the defendant shall not have offered to pay an amount equal to the recovery; but in case the recovery be less than fifty dollars the amount of costs shall be ten dollars; and if no recovery be had, the city shall not be liable for costs unless the judge or justice, at the conclusion of the trial certify in writing that there was not reasonable cause for bringing the action, in which case the costs shall not exceed ten dollars, unless the amount claimed exceed fifty dollars. No action shall abate, or right of action already accrued determine, by reason of the expiration, repeal or amendment of an ordinance, a provision of the sanitary code or an ordinance or regulation of the

department; nor shall any court lose jurisdiction of an action by reason of a plea that title to real estate is involved, provided the defendant be charged on any ground, other than his title. As to all proofs and proceedings by the department, or its agents or officers, papers filed shall be deemed entered upon or in the minutes of the department.

§ 773. Personal liability for expenses; lien on rent or compensation. The expenses attending the execution of an order made by the department shall be a joint and several liability of the owners or part owners, lessees and occupants of the building, business, place, property or thing to which the order relates, and in respect to which the expenses shall have been incurred; and also against every person under legal obligation to do that which the order requires; and such expenses shall also be a lien on all rent and compensation due, or to grow due, for the use of any place, room, building, premises or thing to which said order relates, or for the removal or cleaning thereof.

§ 774. Suit for expenses. One or more of the parties liable for the expenses of executing an order of the department may be made party or parties defendant to an action to recover the same; and any of the persons liable for such expenses, but not made parties defendant in the action, shall be liable for contribution, according to their legal or equitable obligation.

§ 775. Lien for expense of executing orders; enforcement. The city shall have a lien for the expenses necessarily incurred by the department in the execution of an order thereof, which lien shall be upon the real property in respect to which the expenses shall have been incurred, and shall have priority over all other liens or incumbrances, except taxes and assessments. No such lien shall be valid until a notice, containing the particulars required to be stated in a mechanics' lien and that the expenses had been incurred pursuant to an order of the department and the date of such order, shall have been filed in the office of the county clerk as in the case of a mechanic's lien; and thereupon all proceedings with reference to the entry, indexing, enforcement and discharge of such lien shall be followed as provided by law for a mechanic's lien and with the same effect. Unless proceedings to discharge the lien be commenced within six months after actual notice of the filing thereof by the party against whose property a lien is filed, the filing shall, as to all persons having such notice, become conclusive evidence that the amount claimed in the statement is due

and a lien upon the property. Such lien shall continue for a period of four years from the time of filing unless sooner discharged. If within said period proceedings be commenced to enforce the lien, it shall remain a lien until the final termination thereof.

§ 776. Special revenue bonds. The expenses, in excess of appropriation therefor, necessarily incurred by the department in the execution of orders, the amount of which are liens upon the property affected, shall be provided by the issue of special revenue bonds.

§ 777. Suits to abate nuisances. The department may maintain, in the name of the city, an action in the supreme court for the abatement of a nuisance. Costs collected in such action shall be paid into the general fund.

§ 778. Infected and uninhabitable houses. Wherever the sanitary superintendent or an assistant sanitary superintendent shall have reported to the department that a building or a part thereof is infected with disease, or that by reason of want of repair or defective construction, drainage, plumbing or ventilation, it is dangerous to life or unfit for habitation, or that a nuisance on the premises is likely to cause sickness, or that such building prevents ventilation of other buildings, or renders them unfit for habitation, or dangerous or injurious to health, or prevents the abatement of a nuisance, or causes unsanitary conditions, the board may order all persons to vacate the building or a part thereof. The department shall cause such order to be affixed conspicuously in the building or part thereof and served personally on the owner, lessee, agent, occupant or person having charge thereof; if the owner, lessee or agent cannot be found in the city or does not reside therein, or evades or resists service, then such order may be served by depositing a copy in the post-office, inclosed in a sealed postpaid wrapper and addressed to such owner, lessee or agent at his last known place of business or residence; such building or part thereof shall, within ten days after the service of such order, or within such shorter time, not less than twenty-four hours, as in the order specified, be vacated; but the department when it shall be satisfied that the danger has ceased, or that said building has been repaired so as to be safe and habitable, may revoke the order.

§ 779. Proceedings for condemnation. When the department shall have ordered a building or part thereof vacated by



reason of the existence of the conditions stated in the preceding section, and such conditions cannot be remedied, except by the destruction of a building, or part thereof, the department may condemn the same and order it removed; and may institute a proceeding in the supreme court for condemnation, provided, however, that the owner may demand a survey thereof in the manner provided in case of unsafe buildings. The proceeding shall be instituted by petition. If necessary for the destruction of the building or part thereof be denied in the answer, the court shall first determine that issue. If the court decide that the destruction of the building or part thereof be necessary, it shall appoint commissioners to determine the amount of compensation to be made. The proceeding shall be had as provided by the code of ordinances for the condemnation of unsafe buildings. The commissioners shall determine such compensation and the comptroller shall provide for the payment of awards and expenses of the proceeding by the issue of special revenue bonds.

§ 780. Nuisance defined. The term nuisance in this chapter shall include: A nuisance, as known at common law, or in equity jurisprudence; and whatever is dangerous to human life or limb or detrimental to health.

### ARTICLE 3.

#### PENSION FUND.

Section 785. Trustees of pension fund.

786. Composition of pension fund.

787. Pensions for physicians or employees.

788. Pensions to widows or dependents.

789. Certificate of disability.

790. Pension for twenty years' service.

Section 785. Trustees of pension fund. The board of health shall be the trustee of and administer and invest the department pension fund. The board shall annually choose one of its members chairman and elect a secretary. It may make necessary contracts, maintain necessary actions and proceedings and establish rules and regulations for the administration of the fund. It shall report in detail to the mayor annually in the month of January the condition of the fund as of the thirty-first day of December next preceding and the items of receipts and disbursements on account thereof. No payments shall be allowed to, or made by

the board as reward, gratuity or compensation for salary or services rendered to or for it.

§ 786. Composition of pension fund. The department pension fund shall consist of:

1. All moneys collected from fines and penalties for violation of the sanitary code or health laws;

2. A sum of money equal to one per centum of the monthly salary or compensation of each physician or employee, which shall be deducted monthly by the comptroller and paid to the chairman of the board of trustees. No physician or employee hereafter entering the service of the department shall be entitled to the benefit of the pension fund unless, within six months thereafter, he file with the board and the comptroller a notice of intention to take advantage thereof, and consent to such deduction;

All said moneys shall, within thirty days after collection or payment, be paid over by the department, officers, clerks, magistrates and courts receiving or collecting the same to the chairman for the benefit of the pension fund.

§ 787. Pensions for physicians or employees. The board of trustees may grant as annual pension to a physician or employee in the department, who shall, in consequence of the actual performance of duty, without fault or misconduct on his part, have become permanently disabled physically or mentally, so as to be unfit to perform his duty, a sum equal to one-half his annual compensation.

§ 788. Pensions to widows or dependents. When a physician or employee dies in the service from disease contracted or injury sustained in the actual performance of duty, without fault or misconduct, leaving a widow, or dependent widowed mother, the board of trustees may grant to the widow or dependent widowed mother the sum of three hundred dollars annually, so long as she remain a widow; and if there be no widow, but children under eighteen, then said three hundred dollars may be awarded to such children while under eighteen years of age.

§ 789. Certificate of disability. No such physician or employee shall be awarded a pension on account of physical or mental disability or disease, except upon a certificate of a board of physicians, appointed by the board of trustees, setting forth the cause, nature and extent of the disability, disease or injury and whether the disability, disease or injury was incurred or sustained while in

the performance of duty, which certificate shall be filed and entered upon the minutes of the board.

§ 790. Pensions for twenty years' service. A physician or employee who shall have performed duty in the department for a period of at least twenty years shall, upon his own application, in writing, or a certificate of a board of physicians appointed by the board of trustees, that such physician or employee is permanently disabled so as to be unfit for duty, be retired from active service and placed upon the pension-roll, and be granted an annual pension during his lifetime equal to one-half his pay at the time of retirement. In determining the term of service, service in a former health department or board of health in any part of the city, as now constituted, shall be counted as service in the department.

## CHAPTER XVIII.

### TENEMENT HOUSE DEPARTMENT.

- Article 1. Organization of department. (§§ 800-801.)  
2. Powers and duties of department. (§§ 805-817.)  
3. Records and reports; miscellaneous provisions.  
(§§ 825-829.)

## ARTICLE 1.

### ORGANIZATION OF DEPARTMENT.

Section 800. Tenement house commissioner.

801. Bureaus.

Section 800. Tenement house commissioner. The head of the department shall be the tenement house commissioner. He shall appoint two deputies and a secretary.

§ 801. Bureaus. There shall be in the department a new-building bureau, an inspection bureau and a bureau of records. The commissioner shall appoint a chief inspector and deputy chief inspector of the inspection bureau and a chief inspector of the new-building bureau. The new-building bureau shall file, record and examine plans and specifications for tenement houses hereafter altered or erected, and of buildings to be altered or reconstructed for use as tenement houses. It shall inspect all such houses in the course of construction or alteration, and record all

violations relative thereto. The inspection bureau shall inspect all tenement houses, and record all violations of the tenement house law and ordinances. The bureau of records shall keep complete statistics of all tenement houses.

## ARTICLE 2.

### POWERS AND DUTIES OF DEPARTMENT.

Section 805. General powers and duties.

806. Infected and uninhabitable houses to be vacated.

807. Orders; their execution, expense a lien.

808. Inspections of tenement houses in course of construction.

809. Inspection of tenement houses.

810. Actions to be brought in name of department; penalties.

811. Requests for institution of actions.

812. Gratuities.

813. Right of entry.

814. Tenement house squad.

815. Other powers and duties.

816. Nuisance defined.

817. Complaint book.

Section 805. General powers and duties. The commissioner shall:

1. Enforce the tenement house law within the city;

2. Have, concurrently with the health department, power of sanitary inspection of tenement houses and the premises connected therewith; and may enter, inspect and survey all buildings and the premises connected therewith;

3. Have exclusive power:

To require every tenement house to be equipped with proper fire-escapes and other proper means of escape in case of fire; prevent the incumbrance and obstruction of fire-escapes upon tenement houses; and provide for the light and ventilation of tenement houses and the premises connected therewith.

§ 806. Infected and uninhabitable houses to be vacated. Whenever it shall have been certified by an inspector or officer of the department that a tenement house, or any part thereof, is infected with contagious disease, or that it is unfit for human habitation

or dangerous to life or health by reason of want of repair, or of defects in the drainage, plumbing, lighting, ventilation or the construction of the building, or by reason of a nuisance on the premises likely to cause sickness among the occupants, or by reason of the abesnee or inadequacy of fire-escapes and other proper means of egress or escape in case of fire, the department may issue an order requiring all persons therein to vacate such house, or part thereof, within not less than twenty-four hours nor more than ten days for the reasons mentioned in the order. If such order be not complied with, the department may cause said tenement house or part thereof to be vacated. The department, whenever it is satisfied that the danger has ceased or that the tenement house is fit for human habitation, may revoke such order; or it may extend the time within which to comply with the same.

§ 807. Orders, their execution; expense a lien. Whenever a tenement house, or a building, structure, excavation, business, trade, matter or thing, in or about a tenement house or the lot on which it is situated, or the plumbing, sewerage, drainage, light or ventilation thereof, is in the opinion of the department in condition or effect dangerous or detrimental to life or health, the department may declare that the same, to the extent it may specify, is a public nuisance, and may order the same to be removed, abated, suspended, altered, improved or purified, as specified in the order. The department may order or cause any tenement house or part thereof, or any excavation, building, structure, sewer, plumbing, pipe, passage, premises, ground, matter or thing in or about a tenement house or the lot on which it is situated to be purified, cleansed, disinfected, removed, altered, repaired or improved. Any order of the department may be served in the manner prescribed in the tenement house law. If an order of the department be not complied with, or so far complied with as the department may regard as reasonable, within such time as the department may designate, not exceeding five days after service, it may be executed by the department through its officers, agents, employees or contractors. The city shall have a lien for the expenses necessarily incurred by the department in the execution of an order thereof, which lien shall be upon the real property in respect to which the expenses shall have been incurred, and shall have priority over all other liens or incumbrances, except taxes and assessments. Such lien shall become effective, continue and be enforced in the manner and by the proceedings provided for liens for expenses of executing orders of the health depart-

ment. The department may maintain an action or proceeding in the supreme court for the abatement of a nuisance. Neither the department nor any officer or employee thereof, nor the city, shall be liable for costs in such action or proceeding. Every person who shall violate or aid or abet the violation of any notice or order of the department shall be guilty of a misdemeanor and in addition to any other punishment provided therefor, be subject to a civil penalty of two hundred and fifty dollars. The department may in an action or proceeding, or after issuing any order or notice affecting real property, file a notice of the pendency of the action or proceeding in the office of the county clerk of the county in which such real property affected is situated. Such notice of pendency shall have the effect of notice provided in the civil code.

§ 808. Inspections of tenement houses in course of construction. The commissioner shall cause an inspection and examination to be made of all tenement houses in the course of construction or alteration, also of all buildings in course of alteration or conversion for use as tenement houses, for the purpose of ascertaining whether such tenement houses or buildings are being constructed, altered or converted in conformity with law, and the plans and specifications filed with the department, and approved by the commissioner.

§ 809. Inspection of tenement houses. The commissioner shall cause an inspection of every tenement house, in which the average rental of apartments is less than twenty-five dollars per month, to be made at least once in each month. Where the average rental of the apartments therein is twenty-five dollars a month or more, such inspection may be made in the discretion of the commissioner. Such inspections shall include examination of cellars, halls, water-closets, privies, plumbing, wards, areas, fire-escapes, roofs, shafts, courts, tanks and all other parts of such tenement house and the premises connected therewith.

§ 810. Action and proceedings to be brought in name of department; penalties. All actions and proceedings for the enforcement of the tenement house law or the provisions of this chapter shall be brought in the name of the department by the assistant corporation counsel assigned to the department and all penalties recovered shall be paid to him and accounted and paid over to the commissioners together with a statement of the disbursements.

§ 811. Requests for institution of actions. The names of owners, lessees and agents and persons having control of tenement

houses shall be filed, in, and the taxpayer's request for the institution of an action for a lien upon a tenement house shall be presented to, the tenement house department instead of the department of health.

§ 812. *Gratuities.* An officer or member of the department shall not, directly or indirectly, in addition to his regular salary or compensation, receive for his own benefit any present, fee, gift or emolument for services rendered by himself or by the department or an officer or employee thereof.

§ 813. *Right of entry.* The commissioner, his subordinates or a person designated by the commissioner in writing, shall have the right of entry to all premises, grounds, erections, structures, apartments, buildings and every part thereof, and to inspect and survey the same and make plans and descriptions thereof.

§ 814. *Tenement house squad.* The police commissioner on the requisition of the tenement house commissioner shall detail to the tenement house department not more than one hundred members of the police force of at least five years' service. The tenement house department shall pay monthly to the police department a sum equal to the pay of the members so detailed, who shall be known as the tenement house squad and report to the tenement house commissioner. The tenement house commissioner may report to the police department for punishment a member of the squad guilty of breach of order or discipline or of neglect of duty. The tenement house commissioner may reject a member detailed to the squad and thereupon another member shall be detailed in his place.

§ 815. *Other powers and duties.* The department in respect to tenement houses shall have the same powers, duties and remedies as the department of health in relation to the repair of buildings; dangerous and improperly constructed buildings; assistance and co-operation of the police department; service or orders; penalties; legal proceedings and punishment for disobedience of orders and ordinances; reimbursement and lien of expenses, and enforcement of such liens; to nuisances; actions for abatement and removal of nuisances.

§ 816. *Nuisance defined.* The term nuisance, in this chapter, shall include: A nuisance, as known at common law, or in equity jurisprudence; and whatever is dangerous to human life or limb or detrimental to health.

§ 817. Complaint book. There shall be kept in the department a general complaint book in which may be entered by any person a complaint in reference to tenement houses.

### ARTICLE 3.

#### RECORDS AND REPORTS; MISCELLANEOUS PROVISIONS.

Section 825. Records in department.

826. Reports from different institutions and departments.

827. Other reports.

828. Co-operation of other departments.

829. Annual report.

Section 825. Records in department. The commissioner shall keep a complete record of tenement houses, by card catalogue including:

1. A diagram of each tenement house, showing the shape of the building, its width and depth, also the measurements of the unoccupied area, shafts, courts, yards and other open spaces. Such diagram shall include a plan of the second or typical floor of the building, showing the sizes and arrangement of the rooms, and all doors, stairs, windows, halls and partitions;

2. A statement of when the building was erected;

3. A statement of the deaths and the death rate therein during each year, showing whether the deaths were of adults or children, and the diseases causing death, if occasioned by tuberculosis, typhoid fever, diphtheria, scarlet fever, smallpox, measles or other contagious or infectious diseases;

4. A statement of the cases of sickness from contagious or infectious diseases therein, and whether of children or adults.

§ 826. Reports from different institutions and departments. All dispensaries and hospitals shall make weekly statements to the department of the cases of sickness treated therein from each tenement house. The statement shall show the location of the tenement house, by street and number, and the nature of the sickness, and whether the patient was an adult or child. The police department shall furnish to the tenement house department a weekly statement of the number of arrests of persons living in tenement houses, which shall show the location of the tenement house, by street and number, the offense charged, the age and name of the



offender, and such other information as the tenement house department may require. The tenement house commissioner shall furnish blank forms for such statements.

§ 827. Other reports. The department may require reports relative to persons residing in tenement houses, from dispensaries, hospitals, charitable or benevolent societies, infirmaries, prisons and schools, and from the managers, principals and officers thereof, and the managers, principals and officers of such institutions shall promptly make such reports as the commissioner may require.

§ 828. Co-operation of other departments. Each department, board, body and officer shall furnish to the department such information, reports and assistance as may be required.

§ 829. Annual report. The commissioner shall, prior to the first day of March, make an annual report to the mayor of the operations of the department for the year ending on the preceding thirty-first day of December. A copy shall be delivered to the supervisor of the City Record and be published in full in pamphlet form.

## CHAPTER XIX.

### BUILDING DEPARTMENT.

Section 840. Commissioner of buildings.

841. Jurisdiction of department.

842. Inspectors.

843. Powers of deputies.

844. Power to permit variation from law or ordinance.

845. Appeals.

846. Procedure on appeal.

847. Removal of buildings or structures.

848. Right of entry.

849. Permits for buildings; copies to be filed with tax department.

850. Officers and employees forbidden to engage in building trades.

851. Building code.

852. City architect's jurisdiction not impaired.

853. Height of buildings; restrictions as to ordinances regulating.

Section 840. Commissioner of buildings. The head of the department shall be the commissioner of buildings. He shall be an

architect or builder of at least ten years' experience. He shall appoint a deputy for each borough, who shall be an architect or builder of at least ten years' experience, and have been a resident of the borough for which appointed for at least two years. He shall appoint a secretary. There shall be a bureau of the department in each borough the head of which shall be the deputy for the borough.

§ 841. Jurisdiction of department. The department shall have jurisdiction and control of the construction, alteration and removal of all buildings and other structures completed or in the course of construction, except water front property, bridges, tunnels, subways and buildings and structures appurtenant thereto; provided, however, that no permit shall be granted or plan approved by the department for the construction or alteration of a tenement house, or for the alteration or conversion of a building for use as a tenement house, until there shall have been filed in the department the certificate of the tenement house commissioner, issued as provided by law.

§ 842. Inspectors. The commissioner shall appoint a chief inspector of buildings for each borough, who shall be an architect, builder or engineer of at least ten years' experience. In case of absence or disability of the deputy the chief inspector shall possess his power and perform his duties. The commissioner may appoint inspectors who shall be architects, carpenters, plumbers, iron workers, masons or builders of at least five years' experience.

§ 843. Powers of deputies. The deputy for each borough shall determine all questions relative to plans, construction and materials in the construction or alteration of a building or structure within the borough, and require such plans, construction and materials to comply with the law, ordinances and rules and regulations of the departments.

§ 844. Power to permit variation from law or ordinance. If there be practical difficulties in carrying out the strict letter of a statute, ordinance, rule or regulation relating to the construction, alteration or removal of a building or structure, a deputy with the approval of the commissioner, may permit a variation from or modification of its requirements, so that the spirit of the statute, ordinance, rule or regulation shall be observed, public safety secured and substantial justice done. The owner of a building or structure, or his agent, may petition the deputy for such variation or modification, stating the grounds therefor. The

deputy shall grant a hearing thereon, upon a date fixed therefor, and his decision when approved by the commissioner shall be final. A copy of the petition and decision shall be filed in the bureau, and, if the petition be allowed, a certificate, stating the reasons for such allowance, approved in writing by the commissioner, shall be issued by the deputy.

§ 845. Appeals. If a deputy reject or refuse to approve the plan, construction or materials proposed for the construction or alteration of a building or structure, or if it be claimed that the rules and regulations of the bureau or the provisions of statute or ordinance do not apply, or that an equally good or more desirable form of construction can be employed with satisfactory result, the owner, or his agent, may appeal from the decision of the deputy, if the amount involved exceed the sum of one thousand dollars. Such appeal shall be heard by a board of examiners consisting of the fire chief, ex-officio, and the following members, to be appointed by the mayor on the nomination of their respective organizations: One member of the New York chapter of the American Institute of Architects, one member of the New York Board of Fire Underwriters, two members of the Mechanics and Traders' exchange of the city, of whom one shall be a master mason and one a master carpenter, one member of the Society of Architectural Iron Manufacturers of the city, and one member of the Real Estate Owners and Builders' Associations of the city, who shall be an architect or builder.

§ 846. Procedure on appeal. The mayor shall annually designate a member of the board of examiners to be president. The board may appoint and remove a clerk. The board shall meet once a week upon notice from a deputy or upon call of its president. An appeal shall be taken within ten days after the entry of decision upon the records of the bureau, by filing with the deputy and with the clerk of the board of examiners copies of all the papers filed with the deputy upon the application for the building permit. The board shall fix a day, within a reasonable time, for the hearing of the appeal, and upon the hearing the appellant may appear in person or by agent or attorney. No member of the board shall pass upon any question in which he is personally interested, and at least four affirmative votes shall be necessary to reverse or modify the decision appealed from. The decision of the board shall be rendered promptly and be final.

§ 847. Removal of buildings or structures. A deputy may order the construction, alteration, repair or removal of a building or structure, or part thereof, which exists in violation of statute or ordinance, or which by reason of structural defects is, in his judgment, dangerous to life. If the order be not obeyed within twenty-four hours after service of notice upon the owner, agent or occupant, or if there be imminent danger that such building or structure or part thereof may fall, threatening public safety or obstruction of a street, the deputy shall cause such building or structure, or part thereof, to be shored up, made safe or removed. The expense thereof may be recovered by action from the owner or lessee of the land upon which the building or structure, or part thereof, is situated, and shall be a lien thereon, having priority over all other liens except taxes and assessments. Such lien shall become effective, continue and be enforced in the manner and by the proceedings provided for liens for the expense of executing orders of the health department.

§ 848. Right of entry. The commissioner, a deputy, a chief inspector or an inspector may enter, examine or inspect a building or structure, or part thereof or place therein, completed or in the course of construction, provided that no such entry be made into an occupied building or structure between sunset and sunrise, except by the commissioner, a deputy, chief inspector or inspector or pursuant to a written order of the commissioner, a deputy or chief inspector, specifying the reason therefor, which order shall be first exhibited to and a copy served upon the occupant of the building or structure, or part thereof, to be entered and examined.

§ 849. Permits for buildings; copies to be filed with tax department. Whenever a permit shall have been granted for the construction, alteration or removal of a building or structure, the deputy shall furnish to the tax department, within ten days, a copy of such permit, designating the lot and block or tax number upon the tax map of the premises.

§ 850. Officers and employees forbidden to engage in building trades. An officer or employee of the department shall not engage or be interested as principal, agent or stockholder in business as an architect, civil engineer, carpenter, plumber, iron worker, mason or builder, or in the manufacture or sale of articles used in the construction of buildings.

§ 851. Building code. The building code now in force, sub-

ject to amendment and repeal, is hereby continued as a chapter of the code of ordinances until superseded.

§ 852. City architect's jurisdiction not impaired. This chapter shall not be construed to abridge or limit the powers and duties of the city architect in respect of the preparation of plans for and the supervision of work upon, public buildings or structures, except that all public buildings or structures shall be required by the department to conform in all respects to the provisions of all statutes, ordinances and rules and regulations of the department regulating the construction, alteration or removal of buildings.

§ 853. Height of buildings; restrictions as to ordinances regulating. The height of buildings and structures to be erected in the city, may be restricted and regulated by ordinance, provided that when an ordinance on such subject be introduced the board of aldermen shall provide for public hearings thereon before the board or a committee thereof, and no such ordinance shall be passed except by majority of all of the members of the board and shall not take effect until approved by the board of estimate by a vote of members entitled to cast at least twelve votes. Such an ordinance may be limited in its application to a part of the city.

## CHATER XX.

### CHARITIES DEPARTMENT.

- Article 1. Organization of department; powers and duties.  
(§§ 860-871.)
2. Ambulance service. (§§ 880-882.)

## ARTICLE 1.

### ORGANIZATION OF DEPARTMENT; POWERS AND DUTIES.

Section 860. Commissioner; subordinates.

861. Jurisdiction.

862. Powers of the commissioner as to children.

863. Commitment and discharge of children.

864. Supervision of institutions.

865. Classification, employment and instruction of inmates.

866. Records.

867. Relief of the blind.

868. Relatives to support paupers.

Section 869. Hours of labor; discipline.

870. Day nurseries.

871. Disposition of dead bodies.

Section 860. Commissioner; subordinates. The head of the department shall be the commissioner of charities. He shall appoint three deputies and a secretary. He shall be the overseer of the poor of the city.

§ 861. Jurisdiction. The commissioner, in addition to the jurisdiction vested in him by any other statute, shall have charge and control of:

1. The City Hospital, Neurological Hospital, Metropolitan Hospital and Home for the Aged and Infirm on Blackwell's island, borough of Manhattan; New York City Children's Hospitals and schools on Randall's island, borough of Manhattan; Kings County Hospital, Coney Island Hospital, Cumberland Street Hospital, Bradford Street Hospital and Kings County Brooklyn Home for the Aged and Infirm, in the borough of Brooklyn; Sea View Hospital and New York City Farm Colony in the borough of Richmond; and such other hospitals or institutions as are now under the jurisdiction of the department of public charities or which may be assigned to the department by the sinking fund commission.

2. All city institutions for the permanent care and maintenance of poor persons who have no one legally bound to provide for their support, including aged infirm adults and orphan or homeless children;

3. All municipal lodging-houses, day nurseries, recreation centers, settlement houses and other public institutions for the temporary relief of worthy able-bodied or convalescent adults, including persons recently discharged from prisons and seeking employment;

4. The distribution of sums appropriated for the destitute blind;

5. The investigation of the condition of beggars, mendicants and solicitors of alms and the removal from the city of persons liable to become public charges, who desire to return to their homes elsewhere;

6. The distribution, pursuant to judicial orders, of all moneys received for and payable to or on account of abandoned wives, children or dependent relatives;

7. Public burial places and interments therein of deceased

paupers, except the potter's field or city cemetery upon Hart's island.

8. The cremation of corpses and burial of ashes of deceased paupers, when lawful provision shall have been made therefor.

9. All public morgues.

10. All ambulance service in the city except such as shall be maintained by the health department.

§ 862. Powers of the commissioner as to children. The commissioner shall have power to commit, indenture, place out, discharge or transfer any child in his custody, or who may have been placed by him in an institution as a public charge, whenever, in his judgment, it shall be for the best interests of such child, and to revoke and cancel any such indenture or agreement, and to contract with an institution or family for the maintenance of any such child. In placing out or indenturing children the commissioner may assign a subordinate to make the necessary investigations and may employ an incorporated charitable institution or society and reimburse it for its expenses, other than salaries actually incurred, in placing out, supervision and transfer of children. Any such institution to which a child has been committed may place such child in a family, or bind out such child by indenture, or consent to his adoption. In indenturing, placing out, transferring or committing any such child, the commissioner, or an institution or society employed by him shall, when practicable, indenture or place out such child with an individual of the like religious faith of the parents of such child, or transfer or commit such child to an institution governed by persons of the religious faith of the parents of such child. He shall maintain records and histories of all children committed to institutions. On behalf of the city he shall audit and accept bills from all private institutions for such inmates as he shall consider proper charges, and for such purpose may examine the books of record and accounts upon which are based the bills rendered. The bills when audited and allowed by the commissioner shall be paid from the amounts appropriated for private charitable institutions. The audit of the commissioner shall be final and conclusive. The word institution, whenever used in this chapter, shall include any charitable corporation, one of whose objects is the care of children or the placing of children in families.

§ 863. Commitment and discharge of children. The commissioner shall not commit children to an institution unless the state

board of charities shall have certified that it has complied with the rules and regulations established by the board pursuant to section fourteen of article eight of the constitution, and he shall not commit a child to an institution outside of the city unless such institution shall have been certified by the state board of charities to be safe and suitable for such purpose. The term of commitment of a child shall be until the age of sixteen years, or until indentured, placed out as an apprentice or given over in adoption, or returned to its parents, relatives or guardians, or otherwise discharged. A child may be committed to an institution caring for inmates of like religious belief and giving manual or industrial training, until the age of eighteen years. Each institution to which any such child shall have been committed shall, when requested by the commissioner, file with him a list of all such children received by or discharged from said institution during a stated period, which list shall contain the names and residence of the parents and guardians of the children as far as known. Every such institution shall keep a book in which it shall cause to be entered the name and address of each parent, relative or other person visiting an inmate of such institution, who is a public charge upon the city in whole or in part, and the date of each such visit.

§ 864. Supervision of institutions. The commissioner may supervise all charitable, eleemosynary, correctional and reformatory institutions wholly or partly under private control, to or for which any moneys of the city shall have been appropriated or paid and such institutions shall be subject to no other supervision in behalf of the city. If the commissioner decide, after reasonable notice to an institution and a hearing, that the care or treatment of an inmate thereof is not a proper charge upon the city, and a copy of such decision containing the reasons therefor shall have been given to the institution, all right to compensation from the city on account of such inmate shall cease. The decision of the commissioner in any such case may be reviewed by certiorari.

§ 865. Public institutions; classification, employment and instruction of inmates. The commissioner shall cause all inmates of public institutions under his charge to be classified, so far as practicable, upon the basis of previous character and conduct, but such inmates may be transferred or reclassified in accordance with their conduct in the institution. Every inmate of an institution of the department whose age and health will permit shall be employed in



such mechanical or other labor as shall be found to suit his capacity. In an institution to which children are committed there shall be maintained such schools and classes of instruction as may be required by law, or deemed necessary by the commissioner, and all such schools or classes shall be subject to the rules and regulations of the department and the general jurisdiction of the commissioner.

§ 866. Records. The commissioner shall keep records of all persons under his care or custody and of the disposition made of such persons, with full particulars as to the name, age, sex, color and nativity of each, and in case of minors the names and residence of parents and their religious faith, so far as ascertained, and the religious faith and residence of the persons or families with whom or of the institution in which they are placed, together with copies of all instruments of indenture or agreement executed by the commissioner. The commissioner shall also keep records of all persons who are inmates of private institutions who are city charges.

§ 867. Relief of the blind. The commissioner shall distribute the moneys appropriated for the destitute blind in uniform sums, not exceeding one hundred dollars, to destitute adult blind persons not inmates of institutions maintained in whole or in part by the city and who shall be citizens and who shall have been residents of the city for at least two years.

§ 868. Relatives to support paupers. The commissioner shall inquire into the circumstances of every person admitted to an institution under his charge and investigate the financial condition of the near relatives of such person. If the commissioner ascertain that a poor person, or an inmate of an institution of the department, or a person supported in whole or in part at the expense of the city, have means of support or a near relative who is legally bound to and has the means to provide for his support, the commissioner shall proceed to collect from such poor person or such relatives payment for his support.

§ 869. Hours of labor; discipline. The hours of labor required of a pauper or other person committed to or placed under the charge of the commissioner shall be fixed by the commissioner. The commissioner may make such rules and regulations as may be necessary for the enforcement of discipline among the inmates of institutions of the department.

§ 870. Day nurseries. The department may establish day

nurseries and provide for the free admission thereto of children under ten years of age.

§ 871. Disposition of dead bodies. In the case of the death of an inmate of any institution of the department, unless the body be claimed or removed by the relatives or friends of the deceased within twelve hours after the mailing of notice of death to the known addresses of such relatives or friends, it shall be removed to a public morgue within the borough wherein the death occurs, to be preserved and held subject to the rules and regulations of the department or in case of a homicide, the order of the coroner having jurisdiction of inquest as to the cause of such death. The commissioner shall cause any unclaimed dead body to be removed from an institution of the correction department, for burial in a public cemetery, within twenty-four hours after the receipt of an official request for such removal.

## ARTICLE 2.

### AMBULANCE SERVICE.

Section 880. Ambulance service.

881. Additional ambulance service.

882. Board of ambulance service abolished.

Section 880. Ambulance service. The department shall:

1. Exercise general control over and establish rules and regulations governing all ambulance service, except such as shall be within the jurisdiction of the board of health;

2. Establish and alter ambulance districts;

3. Contract in writing with any hospital corporation for an ambulance service by it within a defined district;

4. Provide for the reception of all calls for ambulance service from any locality in the city, notify the hospital maintaining an ambulance service in the district from which the call is received, and, in case the hospital has no available ambulance, notify the nearest hospital having an ambulance available. The department shall keep a record of all such calls and assignments.

§ 881. Additional ambulance service. The department shall establish and maintain an ambulance service in any district which, in the judgment of the commissioner, is inadequately provided with ambulance service and shall maintain an ambulance therein. Subject to the general control of the department, the commis-

sioner of hospitals may maintain an ambulance service in connection with any hospital under the jurisdiction of the department of hospitals.

§ 882. Board of ambulance service abolished. The board of ambulance service is hereby abolished and is superseded by the charities department which shall be its successor.

## CHAPTER XXI.

### DEPARTMENT OF CORRECTION.

Section 890. Commissioner; subordinates.

891. Jurisdiction.

892. Uniformed force.

893. Matrons.

894. Transfer of prisoners; vacation of Blackwell's island.

895. Segregation and instruction of prisoners.

896. Prisoners may be assigned for work in charities department.

897. Collection of fines.

898. Records of prisoners.

899. Punishment.

900. Civil court prisoners.

901. Jail limits.

Section 890. Commissioner; subordinates. The head of the department shall be the commissioner of correction and he shall appoint a deputy and a secretary.

§ 891. Jurisdiction. Except as otherwise provided in this act, the department shall have charge and control of:

1. All prisons and correctional institutions belonging to the city, including the county jails of Queens and Richmond and the institution heretofore described as the county jail or sheriff's prison of the county of New York, commonly known as Ludlow street jail;

2. All persons lawfully committed or remanded to an institution of the department;

3. Hart's island, including the city cemetery or potter's field, Riker's island and such portions of Blackwell's island as are occupied by the institutions of the department.

§ 892. Uniformed force. The wardens, deputy wardens, head-

keepers, keepers and matrons shall constitute the uniformed force of the department, the male members of which shall be peace officers.

§ 893. Matrons. The commissioner shall cause at least one matron to be constantly on duty in any institution during the detention therein of a woman prisoner. No male officer of the department shall search a woman prisoner or a woman visiting an institution. No man shall be admitted to any portion of an institution occupied by women prisoners, unless accompanied by a matron.

§ 894. Transfer of prisoners; vacation of Blackwell's island. The commissioner may transfer a person from one institution to another under his control. The commissioner shall as rapidly as practicable cause to be removed to Riker's island and to Hart's island the inmates of the workhouse and penitentiary on Blackwell's island; and in the meantime may direct removals to other places in the city provided for their accommodation. When any part of Blackwell's island shall have been vacated by the department control and use thereof shall vest in the department of charities or hospitals, as the sinking fund commission determine.

§ 895. Segregation and instruction of prisoners. The commissioner shall, immediately upon their commitment, cause all convicted persons in his charge and control to be classified. He shall segregate the youthful less hardened offenders. One or more of the penal institutions of the department shall be set apart and equipped for the custody, education and manual training of males under the age of twenty-one years, and there shall be established and maintained in the New York city penitentiary and the city workhouse schools or classes for instruction of prisoners.

§ 896. Prisoners may be assigned for work in charities department. Upon the request of the head of the charities department, the commissioner of correction may order a prisoner in his charge to perform service in and about the institutions of the charities department on Blackwell's island and Randall's island, under the supervision of a prison officer.

§ 897. Collection of fines. The commissioner, or a subordinate duly authorized, may receive fines imposed upon prisoners in his custody. Fines so received shall be paid to the chamberlain and accounted for to the comptroller.

§ 898. Records of prisoners. The commissioner shall keep and preserve records of all prisoners committed or remanded to

his care and custody, of the disposal of each, with full particulars as to the name, age, sex, color; nativity and religious faith, and a statement of the cause and length of detention of each.

§ 899. Punishment. A prisoner shall not be punished except by solitary confinement and short allowance of rations. During punishment each prisoner shall be daily examined by a physician and a report of such examination shall be made to the officer in charge of the institution and to the commissioner.

§ 900. Civil court prisoners. Until the sinking fund commission otherwise designated, the city prison in the borough of Brooklyn, formerly known as the Raymond street jail, and the prisons formerly known as county jails in the boroughs of Queens and Richmond, shall be common jails or lawful places for the detention of persons lawfully committed within the counties of Kings, Queens and Richmond, respectively, and the commissioner shall receive and detain therein any person lawfully committed thereto.

§ 901. Jail limits. The jail limits of a jail within a county shall be the territory comprising such county.

## CHAPTER XXII.

### DEPARTMENT OF HOSPITALS.

Article 1. Organization of department. (§§ 910-917.)

2. Board of inebriety. (§§ 925-931.)

### ARTICLE 1.

#### ORGANIZATION OF DEPARTMENT.

Section 910. Commissioner; subordinates.

911. Jurisdiction.

912. Medical and surgical board.

913. Treatment of nonresidents.

914. Death of inmates.

915. Training school for nurses.

916. Temporary care of prisoners and insane persons.

917. Board of trustees of Bellevue and allied hospitals abolished.

Section 910. Commissioner; subordinates. The head of the department shall be the commissioner of hospitals. He shall appoint a deputy and a secretary.

§ 911. Jurisdiction. The department shall have charge and control of Bellevue hospital, Gouverneur hospital, Harmon hospital, Fordham hospital and such other hospitals as may be assigned to the department by the sinking fund commission.

§ 913. Treatment of nonresidents. The department may receive for treatment and treat in the hospitals within its jurisdiction persons who do not reside within the city; provided, that such persons pay such sum for board and attendance as the commissioner may fix, and that such persons be not received to the exclusion of residents of the city. The department may also receive for treatment and treat in any such hospital any person able to pay, in whole or in part, the cost of his care and maintenance, and the commissioner shall collect payment therefor and pay the same to the chamberlain.

§ 914. Death of inmates. In the case of the death of an inmate of a hospital under the jurisdiction of the department, unless the body be claimed or removed by relatives or friends of the deceased within twelve hours after the mailing of notice of death to the known addresses of relatives or friends, it shall be removed to the public morgue within the borough wherein the death occurs, to be preserved and held subject to the rules and regulations of the charities department, or, in the case of a homicide, the order of the coroner having jurisdiction of inquest as to the cause of such death.

§ 915. Training school for nurses. The commissioner shall establish, maintain and conduct such training school for nurses as may be requisite for the proper administration of the hospitals under the jurisdiction of the department, and shall provide suitable courses of instruction, a sufficient number of instructors and adequate equipment. The commissioner may, upon the recommendation of the professors and instructors of a training school, grant certificates of proficiency to its graduates.

§ 916. Temporary care of prisoners and insane persons. The city shall provide and maintain under the charge of the department suitable places in the boroughs of Manhattan and Bronx for the examination and observation of persons alleged to be insane and for the detention and treatment of prisoners who are awaiting arraignment, trial or sentence and are seriously injured or dangerously ill. For this purpose properly equipped prison wards shall be established in connection with a general hospital

under the jurisdiction of the department, which wards shall be under constant police surveillance.

§ 917. Board of trustees of Bellevue and allied hospitals abolished. The board of trustees of Bellevue and allied hospitals is hereby abolished and is superseded by the department of hospitals, which is its successor.

## ARTICLE 2.

### BOARD OF INEBRIETY.

Section 925. Composition of board; appointment and removal.

926. Nomination of members of board.

927. Organization of board; officers.

928. Hospital and industrial colony.

929. Arrests for public intoxication.

930. Commitments.

931. Parole; release from supervision.

Section 925. Composition of board; appointment and removal. The board of estimate may establish a board of inebriety. If so established, the commissioner of charities, the commissioner of correction, and five persons appointed by the mayor, shall constitute the board. Two of the appointive members of the board shall be physicians. The mayor shall appoint members of the board for such terms that the term of one member shall expire on the thirty-first day of January each year, and shall designate the term of each in the certificate of appointment. Their successors shall be appointed in like manner for terms of five years each. The appointive members may be removed by the mayor for cause, after notice and an opportunity to be heard. The members of the board shall serve without compensation.

Any vacancy in the office of an appointive member of the board shall be filled within thirty days after its occurrence by appointment by the mayor. If a vacancy occur, otherwise than by expiration of term, the appointment shall be for the unexpired term.

§ 926. Nomination of members of board. At least twenty days before making an appointment the mayor shall call upon the president or other executive head of the New York Association for Improving the Condition of the Poor, the United Hebrew Charities of the City of New York, the Particular Councils of New York and Brooklyn of the Society of Saint Vincent de Paul, and the Brooklyn Bureau of Charities, to present in behalf of

each, within five days, a list of not less than twice the number of persons to be appointed. The presidents or executive heads of two or more of such organizations may present a joint list.

§ 927. Organization of board; officers. The board shall organize within fifteen days after its members shall have been appointed, and annually thereafter. It shall elect a chairman from its number and shall appoint a secretary who shall be its chief executive officer. The board shall have a central office in the borough of Manhattan for the boroughs of Manhattan and Bronx and a branch office in the borough of Brooklyn for the boroughs of Brooklyn, Queens and Richmond. Each of such offices shall be open daily, Sundays and holidays included.

§ 928. Hospital and industrial colony. The board may, with the consent of the board of estimate, acquire by purchase or condemnation a site suitable for and establish a hospital and industrial colony, within or without the city, for the care and treatment of inebriates. If it be located without the city, the board may establish a reception hospital within the city.

§ 929. Arrests for public intoxication. After the board of inebriety shall have been appointed and shall have certified in writing to the mayor that the hospital and industrial colony of the board is ready to receive inmates it shall keep at each office a record of males arrested for public intoxication within the boroughs of which such office has jurisdiction. When a male person shall have been arrested for public intoxication, the person in charge of the station house to which he shall have been taken shall report to the office of the board for the borough in which the arrest occur the name and address of the person arrested. The board shall thereupon cause an investigation to be made concerning the persons dependent for support upon the person so arrested, his place of employment and the number of times he has been previously arrested for public intoxication. If it appear that such person has not been arrested for public intoxication during twelve months next preceding, the board shall inform him that he may make a written request to the court having jurisdiction for his immediate release. Such request shall state the name and address of the person arrested, the persons dependent upon him for support, his place of employment and that he has not been arrested for public intoxication within twelve months next preceding. If such request be signed, the board shall inform the officer in charge of the arrested person, and such officer shall forthwith release him. The board shall send such request to the court having



jurisdiction, together with a report of the investigation made by the board. Such report shall contain a statement of the sources of the information contained therein. If the board ascertain that the person arrested for public intoxication has been arrested within the twelve months next preceeding, it shall report the result of its investigation to the court having jurisdiction of the case.

§ 930. Commitments. After the board of inebriety shall have been appointed and shall have certified in writing to the mayor that the hospital and industrial colony of said board is ready to receive inmates, a male resident who is adjudged by a court of record to be an inebriate may, upon his own application, or upon the petition of a relative or of the commissioner of charities, the commissioner of hospitals, and also upon the certificate of two medical examiners in lunacy, be committed by such court to the board for not less than one year nor more than three years. The provisions of law relating to the commitment of insane persons shall, so far as practicable, apply to the commitment of persons as inebriates under this section. An inebriate is a person who is unable to properly conduct himself or his affairs, or is dangerous to himself or others by reason of habits of periodical, frequent or constant drunkenness, induced either by the use of alcoholic or other liquors or by opium, morphine or other intoxicating or narcotic or stupefying substances. The board shall collect money for the maintenance of any person committed to it who is able to pay in whole or in part therefor, at a rate not exceeding the per capita per diem expense of maintaining patients in its hospital. No person, without the written order of an authorized representative of the board, shall bring or cause to be brought any intoxicating liquor or narcotic drug upon premises under the control of the board, or without the written order of a physician attached to the hospital, furnish any patient intoxicating liquor or narcotic drug.

§ 931. Parole; release from supervision. The board may parole a person committed to it, but such person shall remain under the supervision of the board until the expiration of the maximum term for which he was committed, unless sooner released from supervision by the board. A person violating the terms of his parole may be arrested on the warrant of the board and returned to its custody, or taken before the court which committed him. The warrant may be executed by any subordinate of the board designated by it. The board may apply to the court which

committed a person to it to relieve the board from his care and custody. Such application shall set forth the facts tending to show that such person is unsuitable for further treatment by the board or under its supervision. The court may thereupon relieve such board from further custody and care of such person; and may at the same time make such disposition of him as is authorized by law.

## CHAPTER XXIII.

### DOCK DEPARTMENT.

Article 1. General provisions. (§§ 940-949.)

2. Docks. (§§ 955-969.)

## ARTICLE 1.

### GENERAL PROVISIONS.

Section 940. Commissioner of docks; subordinates.

941. Definitions.

942. Jurisdiction.

943. Plans for water front.

944. Water front improvements by private owners.

945. Plans to be approved after public hearing.

946. Agreement with riparian owners.

947. Function of commissioner subject to general control of sinking fund commission.

948. Rules and regulations.

949. Work of department.

Section 940. Commissioner of docks; subordinates. The head of the department shall be the commissioner of docks. He shall appoint two deputies; a chief engineer and a secretary, and may appoint dockmasters.

§ 941. Definitions. Wherever used in this chapter:

1. "Bulkhead line" means the line beyond which it is unlawful to fill in with solid material in the waters of the city, except in the construction of piers;

2. "Marginal wharf" means the area extending inshore from the bulkhead lines shown on any plan for the improvement of the water front adopted pursuant to law and constructed in accordance with such plan;

(a) Designated as "marginal street, wharf or place and approaches thereto;" or,

(b) Authorized by law to be used for the deposit or transfer of goods and merchandise upon, over or under the same, and for the construction of warehouses;

4. "Vessel" means every description of water craft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

5. "Canal boat" means a vessel used in navigating the canals of the state.

§ 942. Jurisdiction. The department shall have power, charge and control

1. Over all water front property owned or possessed by the city unless otherwise directed by the sinking fund commission, and of regulating, developing and improving the same;

2. Of repairing, building, rebuilding, maintaining, altering, strengthening and protecting such water front property and of dredging and deepening in and about the same;

3. Of fixing bulkhead and pierhead lines within the limits established by law, and where no such lines shall have been established;

4. Of fixing the distance between piers, of fixing the line of solid filling and of prescribing the method and character of construction of all water front property;

5. Of regulating all water front property not owned or possessed by the city;

6. Of completing, altering and amending the plans for the water front, heretofore adopted and filed pursuant to law, and of adopting, altering and amending new plans for the improvement of the water front;

7. Of regulating, maintaining, opening, widening, constructing or closing marginal wharves in accordance with plans adopted or altered or amended pursuant to law;

8. Of the removal of abandoned, stranded, sunken or wrecked vessels, or other obstructions on property within the jurisdiction of the department;

9. Of collecting revenues derived from water front property belonging to the city;

10. Of acquiring water front property, subject to the powers of the board of estimate;

11. Of making all surveys, soundings and other examinations of water front property owned by the state, city and private parties when necessary to ascertain the capacity and requirements thereof for commercial and other uses, and maps and plans now on file or hereafter made and filed in the department shall correctly show the depth of water, condition of bottom and all other necessary details.

12. Fixing, determining and establishing by agreement with upland owner the line of high water, in front of the property of such upland owner upon a straight line or lines. The jurisdiction of the department, however, shall not extend to the property, matters or things jurisdiction over which is given by this act to the ferry department.

§ 943. Plans for water front. Water front property shall be permanently improved only in accordance with plans therefor adopted, altered or amended by the commissioner and approved by the sinking fund commission and filed in the department. Plans for water front improvement shall not be required to provide for marginal wharf.

§ 944. Water front improvements by private owners. The commissioner may license and permit private owners of water front property at their own expense to improve such property in accordance with plans already adopted or hereafter adopted and under the supervision of or by the commissioner, upon such terms and conditions relating to reimbursement and future rights as may be agreed upon.

§ 945. Plans to be approved after public hearing. Resolutions of the sinking fund commission adopting, approving or certifying plans for water front property shall be passed only after a public hearing, notice of which shall have been published in the City Record for six consecutive days, not less than seven nor more than thirty days before the hearing.

§ 946. Agreement with riparian owners. The commissioner, subject to the approval of the sinking fund commission, may agree with an upland owner upon an adjusted division by a straight line or lines between points on the natural shore, and sell and convey to the upland owner lands under water inside of such adjusted division line or lines; and in case such lands be partly inshore and partly outshore of such division line or lines, exchange lands under water inshore or such adjusted division line or lines for the

lands outside thereof, such exchange, however, to include a conveyance to the city of all riparian rights, if any.

§ 947. Functions of commissioner subject to general control of the sinking fund commission. The powers of the commissioner relative to the establishment of bulkhead and pierhead lines and the assignment, designation and reservation of water front property shall be exercised only with the approval of the sinking fund commission.

§ 948. Ordinances, rules and regulations. All ordinances, rules and regulations of the department, except such as relate exclusively to its organization or to the duties or discipline of its officers and employees, shall constitute a chapter of the code of ordinances.

§ 949. Work of department. All work under the charge or control of the department may be performed in whole or in part by employees of the department, or by day work, or by contract, in the discretion of the commissioner.

## ARTICLE 2.

### DOCKS.

- Section 955. Regulations of water front property and vessels.
- 956. Assignment of wharf property.
  - 957. Recreation piers.
  - 958. Use of water front property by other departments.
  - 959. Wharfage and top wharfage charges.
  - 960. Schedule of charges to be printed on bills.
  - 961. Dock leases.
  - 962. Permits for sheds.
  - 963. Floating docks and structures.
  - 964. Licenses for temporary use.
  - 965. Copies of permits to be filed with tax department.
  - 966. Repair and dredging of private property.
  - 967. Removal of obstructions to navigation.
  - 968. Removal of incumbrances.
  - 969. Water front property to be kept clean.

Section 955. Regulations of water front property and vessels. The commissioner or his authorized representative, a deputy commissioner, a superintendent of docks, an assistant superintendent of docks, or a dockmaster may provide and assign suitable accom-

modations for all vessels, and regulate their use and occupancy of water front property of the city or of privately owned water front property, and order the removal of any vessel not actually engaged in receiving or discharging cargo, to make room for vessels prepared to receive or discharge cargo. If an owner of water front property or owner, master or person in charge of a vessel refuse to obey such order, the owner of such water front property or such vessel shall be charged at the rate of not exceeding fifty dollars a day for each day or part of a day commencing from the service of the order upon such owner of water front property or his representative, or owner, master or person in charge of the vessel, and continuing until the vessel be removed as directed; and the charge may be collected in an action by the city in any court of civil jurisdiction, and the judgment shall constitute a lien upon the vessel; and the commissioner may, at any time, cause the vessel to be removed and retain it in custody of the department until all such charges, together with the charges incidental to such removal and retention, have been paid. It shall not be lawful for a vessel to obstruct the waters of the city by lying at the exterior end of piers, except when authorized by the commissioner or his authorized representative.

§ 956. Assignment of water front property. The commissioner, under the direction of or subject to the approval of the sinking fund commission, shall assign water front property of the city for the accommodation of canal boats; for general wharfage purposes; for the use of the various city departments; for the naval militia of the state; and for other purposes. And water front property so assigned shall not be leased or used for any other purpose, unless the sinking fund commission shall by special resolution have repealed such assignment. Upon the application of a person aggrieved by the failure of the commissioner to assign water front property, the sinking fund commission may assign the same. No repeal of an assignment shall be made by the sinking fund commission, except by resolution, passed in open meeting, after a public hearing upon notice published in the City Record for three days successively in the calendar week preceding the hearing.

§ 957. Recreation piers. The commissioner, with the approval of the sinking fund commission, may build or set aside water front property or portions thereof for recreation purposes.

§ 958. Use of water front property by other departments.

When water front property shall have been assigned to a city department or to the naval militia of the state, the expense of repairs, maintenance and dredging of such property shall be paid out of the appropriations made for the department or naval militia for whose use the property shall have been assigned; but, upon request, such work may be done by the commissioner.

§ 959. Wharfage and top wharfage charges. The commissioner, with the approval of the sinking fund commission, shall fix the charges for wharfage and dockage, and for top wharfage for merchandise remaining on wharf property, provided, that the present charges and rates therefor shall continue until changed by the commissioner with the approval of the sinking fund commission. All such charges shall constitute a lien upon the vessel or merchandise on account of which the same may be incurred, and no vessel or merchandise against which such lien exists shall be removed without the consent of the commissioner or the owner or lessee of the water front property, until such lien shall have been discharged.

§ 960. Schedule of charges to be printed on bills. The commissioner or owner or lessee of water front property shall cause to be printed on the back of all bills for wharfage or top wharfage a schedule of legal charges therefor, and no charges shall be collectible unless the bill shall have been so printed, and no greater amount than the charges so printed shall be demanded or collected.

§ 961. Dock leases. The commissioner may, with the approval of the sinking fund commission, and upon such terms as the commission may prescribe, in the name and behalf of the city, lease water front property belonging to the city, other than for ferries, for a term not exceeding ten years, and covenant for renewals of such leases for terms of not more than ten years each, but not exceeding in the aggregate fifty years, the rental for all renewals to be fixed by appraisal, as provided for in the lease. Each application for a lease of water front property shall be made in writing to the commissioner, who shall enter into negotiations in respect thereto. If an agreement be reached, the agreement, or if not, the offer shall be transmitted to the sinking fund commission, which may fix the terms and conditions of the lease and authorize its execution. A lease, when authorized, shall be executed by the commissioner under the seal of the department. The commissioner may grant, without the approval of the sinking fund commission,

temporary permits, terminable at the will of the commissioner, for periods not exceeding one year each to use and occupy water front property belonging to the city.

§ 962. Permits for sheds. The owner or lessee of water front property may, with the consent of the commissioner, erect and maintain upon such property, sheds or other structures, for loading, discharging or protecting cargo, and such consent if accepted and acted upon shall be revocable by the commissioner when authorized by a resolution of the sinking fund commission adopted after a public hearing, upon not less than ten days' notice by mail to the last known address of the person in possession of such property or his agent. An owner or lessee of water front property who shall have erected a shed or structure, authorized as aforesaid, shall be entitled to the use of the property owned or leased, and no vessel shall be placed alongside without his consent during the term of such authority, but not beyond the term of such lawful possession.

§ 963. Floating docks and structures. The commissioner may, under such conditions as he may prescribe, issue revocable permits for the construction and maintenance, upon water front property, of derricks, hoists, conveyors, bins, floating docks and other structures.

§ 964. Licenses for temporary use. The commissioner may build or rebuild or license or permit the building or rebuilding of temporary structures, and may, with the approval of the sinking fund commission, execute leases for lands under water for such purposes, but only for terms not beyond the time when such lands under water shall be required for the purpose of carrying out and executing the plans for the improvement and development of the water front.

§ 965. Copies of permits to be filed with tax department. When a permit shall have been granted for the improvement or alteration of water front property not owned by the city the commissioner shall furnish to the tax department, within ten days thereafter, a copy designating the property upon which such improvement is to be made by a description thereof sufficient to identify the same.

§ 966. Repair and dredging of private property. The commissioner, subject to the approval of the sinking fund commission, may order the navigable water adjacent to private water front property to be deepened; and may also order private water



front property to be repaired to insure public safety; and if such order be not complied with, the commissioner may cause the work to be done. If the owner fail to pay the cost of such work within thirty days after demand, the expense thereof shall be estimated and assessed by the board of assessors upon every piece of water front property which shall have been so repaired or adjacent to which the water shall have been deepened in proportion as nearly as may be to the benefit thereto.

§ 967. Removal of obstructions to navigation. If water front property be abandoned and constitute an obstruction to navigation, or if a vessel be stranded, sunken or wrecked, and be abandoned for ten days, the commissioner shall notify the owner of such abandoned property or vessel, if such owner be within the city and be known to him, to remove the same forthwith, but if such owner be not known to the commissioner or is not within the city or fail to comply with the notice, the commissioner shall cause such obstruction or vessel to be removed and the expense of such removal shall be recoverable by action from the owner, and shall be a lien on the property or vessel so removed until paid. If such property or vessel be not claimed within thirty days after removal, the commissioner shall advertise the same for sale, at public auction to the highest bidder, in the City Record daily for six days. The proceeds of the sale shall be paid into the city treasury.

§ 968. Removal of incumbrances. The commissioner may make such rules and regulations and give such directions as will secure dispatch in loading and unloading vessels and prevent the accumulation of freight or merchandise upon water front property of the city. The commissioner may without notice require the removal of vehicles obstructing the water front, and may, upon twelve hours' notice, require all other classes of movable property which obstruct the water front property of the city to be removed by the owner, consignee or person interested therein or in charge thereof, within a specified time; and in the event of failure to remove any such vehicle or property, the commissioner may cause the same to be removed and stored at the expense of the owner, consignee or interested party, and at his risk. The expense of such removal and storage shall be a lien upon the property, until discharged by payment, and may be collected by action in the name of the city from the owner, lessee or consignee. All movable property so removed and stored and remaining unclaimed for thirty days may be advertised for sale and sold by the commis-

sioner, to the highest bidder after notice, specifying the marks on each package, published in the City Record daily for six days. The proceeds of such sale shall be first applied to the payment of the cost of removal and storage, and the excess, if any, shall be paid into the city treasury for the owner, lessee or consignee. If the proceeds be insufficient to pay such expenses, the city shall have an actionable claim against the owner, lessee or consignee for the deficiency.

§ 969. Water front property to be kept clean. The commissioner shall cause all water front property in the possession of the city within the charge and control of the department to be kept clean. He shall dispose of the sweepings, ashes and other refuse and for such purpose may use, concurrently with the department having control of street cleaning, the water front property assigned to and set apart for the use of such department; and all contracts made by such department for the removal of ashes, garbage and sweepings shall include the removal of ashes, garbage and sweepings and refuse required to be removed by the dock department.

## CHAPTER XXIV.

### FERRY DEPARTMENT.

Section 980. Commissioner of ferriers; subordinates.

981. Jurisdiction.

982. Plans for water front property.

983. Operation of municipal ferries.

984. Emergency expenditures.

985. Charter of private ferry boats.

986. Ferry leases.

987. Ferry service.

988. Water front property to be kept clean.

989. Powers of commissioner subject to general control of sinking fund commission.

Section 980. Commissioner of ferries; subordinates. The head of the department shall be the commissioner of ferries. He shall appoint a deputy and a secretary.

§ 981. Jurisdiction. The department shall have power, charge and control

1. Over all water front property owned or possessed by the city assigned or designated for use for ferry purposes, and of regulating, developing and improving the same;

2. Of the regulation of all water front property not owned or possessed by the city used for ferry purposes;

3. Of completing, altering and amending the plans for the water front assigned or designated for use for ferry purposes heretofore adopted and filed pursuant to law, and of adopting, altering and amending new plans for improvement of such water front property;

4. Of acquiring water front property for ferry purposes, subject to the powers of the board of estimate;

5. Of the establishing, maintaining and operating ferries and of entering into agreement respecting the same;

6. Of all property owned or used for ferry purposes;

7. Of collecting revenues derived from the operation or use of ferries and ferry property.

§ 982. Plans for water front property. Water front property required for ferry purposes shall be permanently improved only in accordance with plans therefor adopted, altered or amended by the commissioner and approved by the sinking fund commission and filed in the department. Plans for such water front improvement shall not be required to provide for marginal wharf.

§ 983. Operation of municipal ferries. The commissioner shall operate and manage all municipal ferries, fix time tables and rates of ferriage for vehicles and passengers and lease for periods not exceeding three years all privileges incident to or connected with the operation of such ferries.

§ 984. Emergency expenditures. The commissioner may, with the approval of the sinking fund commission, without advertisement and competitive bidding, whenever necessary for the proper maintenance of the service, make expenditures for repairs to and the purchase of new parts or materials for ferry boats or water front property used for ferries operated by the city not exceeding in any one case the sum of twenty-five thousand dollars, which shall be provided for by the issue of special revenue bonds.

§ 985. Charter of private ferry boats. When a ferry boat operated by the city be undergoing repairs or alterations or for any other reason be out of commission the commissioner may, with the consent of the sinking fund commission, without advertisement and competitive bidding, charter a ferry boat to take its place for a period not exceeding sixty days.

§ 986. Ferry leases. The commissioner may, with the approval of the sinking fund commission, and upon such terms as

the commission may prescribe, in the name and behalf of the city, lease a ferry franchise for a term or terms, and covenant for renewals, but not exceeding in the aggregate twenty-five years, the rental for all renewals to be fixed by appraisal, as provided for in the lease. All applications for leases of ferry franchises shall be made in writing to the commissioner, who shall enter into negotiations in respect thereto. If an agreement be reached, the agreement, or if not, the offer shall be transmitted to the sinking fund commission, which may fix the terms and conditions of the lease and authorize its execution. A lease, when authorized, shall be executed by the commissioner under the seal of the department. The commissioner may also lease in like manner, together with a ferry franchise, such water front property of the city as may be required for such ferry. Such lease may provide for the service to be furnished, the character and speed of boats, the frequency of trips, the rates of fare and commutation and freight charges, and that the lease be forfeited in the event of failure to comply with its provisions.

§ 987. Ferry service. If the commissioner be unable to lease a ferry franchise and deem it inadvisable to establish a municipal ferry, and, in his judgment, the public interests require the maintenance of ferry service, he may, with the approval of the sinking fund commission, without advertisement and competitive bidding, contract for the furnishing of ferry service upon the best terms obtainable.

§ 988. Water front property to be kept clean. The commissioner shall cause all water front property of the city within the charge and control of the department to be kept clean. He shall dispose of the sweepings, ashes and other refuse and for such purpose may use, concurrently with the department having control of street cleaning, the water front property assigned to and set apart for the use of such department; and all contracts made by such department for the removal of ashes, garbage and sweepings shall include the removal of ashes, garbage and sweepings and refuse required to be removed by the ferry department.

§ 989. Powers of commissioner subject to general control of sinking fund commission. The powers of the commissioner shall be exercised subject to the general control of the sinking fund commission.

## CHAPTER XXV.

## PARK DEPARTMENT.

Section 1000. Park board; secretary.

1001. Jurisdiction.

1002. Commissioners; individual jurisdiction.

1003. Transfer of water front jurisdiction.

1004. Maintenance of buildings and continuance of contracts.

1005. Park ordinances; rules and regulations.

1006. Park reports.

1007. Appropriation by boroughs.

1008. Restriction as to use of ocean boulevard.

Section 1000. Park board; secretary. The head of the department shall be the park board. It shall consist of four members who shall be known as commissioners of parks. One commissioner shall be appointed for the boroughs of Manhattan and Richmond and one for each of the other boroughs. The commissioner appointed for the boroughs of Manhattan and Richmond shall be the president of the board. The board shall appoint a secretary.

§ 1001. Jurisdiction. The department shall,

1. Have jurisdiction and control of all public parks and parkways and streets immediately adjoining or connecting the same, heretofore placed under the jurisdiction of the park department or the park commissioner, or which may hereafter be placed under the jurisdiction of the department; but such jurisdiction shall not include buildings now or hereafter erected for governmental purposes other than for the department;

2. Maintain the beauty and utility of parks and parkways and provide for their improvement;

3. Authorize and regulate projections on and determine the line or curb and surface construction of all streets within its jurisdiction, and determine the line or curb and surface construction of any street within three hundred and fifty feet from the outer boundary of a park other than a parkway;

4. Plant trees and construct and place seats, drinking fountains, statues and works of art;

5. Manage, direct and control property conveyed or transferred to the city for the improvement or ornamentation of parks or parkways, or for the establishment or maintenance therein of

museums, zoological, botanical or other gardens, collections of natural history, observatories, or works of art, upon the terms and conditions prescribed by the grantors or donors and accepted by this city;

6. Provide for the lighting of parks, parkways and streets within its jurisdiction;

7. Permit, upon the application in writing of the fire commissioner, a building for fire apparatus to be placed in a park;

8. Perform contracts entered into for the use of the parks for purposes of art and education;

9. Grant licenses for the use of park property for business purposes which contribute directly to the use, convenience or enjoyment of the parks by the public, upon such terms as shall be approved by the board of estimate;

10. Establish and enforce rules and regulations for the government and protection of parks and parkways and of all streets and property within the jurisdiction of the department, which rules and regulations shall be uniform as far as practicable in all boroughs.

§ 1002. Commissioners; individual jurisdiction. Subject to the general rules and regulations of the department, each commissioner shall have charge, in the borough for which he is appointed, of the public parks, parkways and streets within the jurisdiction of the department; of the regulation of projections and determination of the line or curb and surface construction of streets; the granting of licenses for park privileges; and the appointment and removal of employees, except those engaged in the general administrative work of the board.

§ 1003. Transfer of water front jurisdiction. All portions of the water front and all water front property below high water marking heretofore in the charge and control of the department is hereby transferred to the jurisdiction of the dock department or ferry department as the sinking fund commission determine.

§ 1004. Maintenance of buildings and continuance of contracts. The department may continue the contracts with the Metropolitan Museum of Art; the American Museum of Natural History; the New York Public Library, Astor, Lenox and Tilden Foundations; New York Zoological Society; the Brooklyn Institute of Arts and Sciences; the board of managers of the New York Botanical Garden. It shall maintain and equip the New York Botanical Garden, the buildings of Meteorological and Astronomical Ob-

servatories, the Museum of Natural History, the Metropolitan Museum of Art, the Aquarium, and the Brooklyn Institute of Arts and Sciences. The department shall also maintain and equip such other institutions or buildings as may be established or constructed in any park and placed under its jurisdiction by the sinking fund commission.

§ 1005. Park ordinances; rules and regulations. All ordinances, rules and regulations of the department, except such as relate to its organization or to the duties or discipline of its officers and employees, shall constitute a chapter of the code of ordinances.

§ 1006. Park reports. The park board shall, within ninety days hereafter, prepare and transmit to the board of estimate and board of aldermen a list and description of all parks, parkways and streets under the jurisdiction of the department in each borough, which shall be published in the City Record.

§ 1007. Appropriation by boroughs. The park board shall, in its annual departmental estimate, state separately the amount required for the maintenance of and for permanent improvements in the parks in each borough. Funds appropriated for park purposes in one borough shall not be expended in another borough, except with the consent of the board of estimate.

§ 1008. Restrictions as to use of Ocean boulevard. The park board may, by rules and regulations, restrict the use and occupation of the main drive of Ocean boulevard in the borough of Brooklyn, from Twenty-second avenue to Kings Highway, to horses and light carriages and exclude other vehicles, motor vehicles and bicycles.

## CHAPTER XXVI.

### BRIDGE DEPARTMENT.

Section 1010. Commissioner of bridges; subordinates.

1011. Definition.

1012. Jurisdiction.

1013. Bridges are public highways.

1014. Right of entry on private property.

1015. Leases.

1016. Permits.

1017. Paving on bridges.

1018. Sweeping and cleaning of bridge roadways.

Section 1010. Commissioner of bridges; subordinates. The head of the department shall be the commissioner of bridges. He shall appoint a deputy and a secretary.

§ 1011. Definition. Wherever used in this chapter the terms "public bridge" or "bridge" mean a bridge or viaduct constructed in whole or in part at the public expense across navigable waters or having termini in more than one borough, except bridges wholly in public parks and having termini in the same borough.

§ 1012. Jurisdiction. The department shall have charge and control of

1. The preparation of plans and specifications for and the construction, management, maintenance, repair and alterations of all public bridges, with their approaches and entrances;

2. The construction and equipment of the municipal building, located at the Manhattan terminal of the Brooklyn bridge;

3. The preparation of plans and specifications for and the construction, management, maintenance, repair and alteration of all tunnels constructed at the city's expense, in whole or in part, or acquired by the city, and located under navigable waters or having termini in more than one borough, other than tunnels constructed or acquired pursuant to the provisions of the rapid transit act as amended and supplemented;

4. The use of any such bridge or tunnel and the collection of such tolls, rentals and other charges therefor as may be fixed by the board of estimate; but the income of the Williamsburg bridge, after paying for its maintenance, shall be paid monthly, to the sinking fund commission, to be applied toward the payment of the interest and principal of the bonds issued under the provisions of chapter seven hundred and eighty-nine of the laws of eighteen hundred and ninety-five;

5. The operation of railroads upon such bridges and approaches and through such tunnels, so far as such operation affects the maintenance, repair, alteration and safety of such bridges, approaches and tunnels;

6. The preparation of plans and specifications for and the installation, management, maintenance, repair and alteration of all electrical equipment required for the operation of public bridges. Contracts for the use of electrical current upon such bridges shall be made by the commissioner of water, gas and electricity, as provided in this act.

§ 1013. Bridges are public highways. All bridges and tunnels



under the jurisdiction of the department are declared to be public highways, subject to such tolls and charges as may be fixed by the board of estimate and to such prudential regulations as may be prescribed by ordinance; provided, however, that on every such bridge a passageway for foot passengers shall be open at all times and shall be free of tolls, and no tolls or other charges shall be charged for vehicles other than those operated by common carriers for hire. This chapter shall not limit or affect the jurisdiction and powers of the public service commission of the first district.

§ 1014. Right of entry on private property. The commissioner may, when authorized by the board of estimate, make surveys, soundings and borings on the site of a proposed bridge or tunnel, and for such purpose the commissioner or his representatives, authorized in writing, may enter upon any real property.

§ 1015. Leases. The commissioner may, with the approval of the sinking fund commission and upon such terms and conditions as it prescribe, in the name and in behalf of the city, lease any of the real property of the city acquired and necessary for bridge purposes but not used therefor, except water front property, for a term not exceeding ten years, and covenant for renewals of such leases for terms of not more than ten years each. All applications for leases of such property shall, in the first instance, be made in writing to the commissioner, who may enter into negotiations in respect of leases so far as concerns the precise property to be leased, the term of the lease and the rental and the covenants generally. After a tentative agreement shall have been reached between the commissioner and the proposed lessee, such tentative agreement, or if no such agreement be arrived at, then the offer of the proposed lessee shall be transmitted to the sinking fund commission which may fix the terms and conditions of the lease and authorize its execution. The lease, when authorized, shall be executed by the commissioner and shall be sealed with the seal of the department; and all rentals collected thereunder shall be paid to the chamberlain.

§ 1016. Permits. The commissioner may grant temporary permits, for a period not to exceed one year, for the use and occupation of property of the city acquired and necessary for bridge purposes; such permits shall be terminable at the will of the commissioner and shall not require the approval of the sinking fund commission.

§ 1017. Paving of bridges. On all bridges within the juris-

diction of the department the roadway, pavement and sidewalks shall be laid, maintained and repaired by the department.

§ 1018. Sweeping and cleaning bridge roadways. This chapter shall not impose upon the commissioner of bridges the charge or control of sweeping the roadways and sidewalks of bridges and their approaches, except bridges crossing navigable streams.

## CHAPTER XXVII.

### STREET CLEANING DEPARTMENT.

Article 1. Organization, powers and duties of department.  
(§§ 1030-1035.)

2. Pensions. (§§ 1040-1049.)

### ARTICLE 1.

#### ORGANIZATION, POWERS AND DUTIES OF DEPARTMENT.

Section 1030. Commissioner; subordinates.

1031. Jurisdiction.

1032. Performance of work.

1033. Public uses.

1034. Removal of ice and snow.

1035. Clerical and uniformed forces.

Section 1030. Commissioner; subordinates. The head of the department shall be the commissioner of street cleaning. He shall appoint three deputies and a secretary.

§ 1031. Jurisdiction. The department shall have charge and control of the sweeping, cleaning, sprinkling, flushing or washing and sanding of the streets of the boroughs of Manhattan, Bronx and Brooklyn; the removal, or other disposition as often as the public health and the use of the streets may require, of ashes, garbage, street sweepings, the bodies of small dead animals and other light refuse and rubbish, and of the removal of snow and ice from leading thoroughfares and from such other streets within said boroughs as may be found practicable; and the removal or other disposition of all ashes from the docks of Blackwell's and Randall's islands and shall furnish scows or other suitable receptacles for the removal of the same. Such jurisdiction shall not extend, however, to streets in the charge and control of the park, dock and ferry departments.

§ 1032. Performance of work. In the discretion of the commissioner the work of the department may be performed in whole or in part by employees of the department, or by day work or by contract. Contracts for any such purpose shall be for not more than five years, and shall be terminable at any time by the commissioner after three years, upon three months' notice. The commissioner may hire horses, vehicles, vessels, machinery, tools and equipment at compensation by day or trip for successive days or trips where the aggregate compensation thereof exceed one thousand dollars without advertisement or public letting.

§ 1033. Public uses. The water front property assigned for the use of the department having control of street cleaning shall, whenever practicable, be used by the general public for dumping such material as such department shall permit, upon such conditions as may be imposed by it and the commissioner of docks. The department charged with street cleaning may cause snow and ice to be dumped along the water front at the places designated by the commissioner of docks.

§ 1034. Removal of snow and ice. If in any calendar year the expense of removing snow and ice exceed the amount appropriated therefor, the additional expenditures required for such purpose shall be met by the issue of special revenue bonds in such amount as shall be certified by the commissioner and approved by the board of estimate.

§ 1035. Clerical and uniformed forces. The members of the department shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such clerks and messengers as the commissioner may determine. The uniformed force shall be composed of a general superintendent and such classes and number of other subordinates as the commissioner may determine. The officers and employees of the department shall be employed at all such times, during such hours and upon such duties as the commissioner may direct.

## ARTICLE 2.

## PENSION FUND.

Section 1040. Street cleaning pension fund; commissioner, trustee of.

1041. Funds to be paid trustee; exemption from execution and process.

1042. Composition of pension fund.

1043. Retirement of and pensions to members.

1044. Pensions to dependents.

1045. When certain pensions terminate.

1046. Certificate of disability; rules as to pensions.

1047. Salary deductions.

1048. When pensions to be paid.

1049. Deferred payment of pensions.

Section 1040. Street cleaning pension fund; commissioner, trustee of. There shall be a pension fund of the street cleaning department which shall be made up, administered and used for the benefit of the members of the clerical and uniformed forces of the department. The commissioner shall be the trustee and treasurer of the fund. He shall, before entering upon his duties, give a bond, in the penal sum of fifty thousand dollars, to be approved by and filed with the comptroller, conditioned upon the faithful discharge of his duties, and the accounting for all moneys and property which shall come into his hands. The expense of the commissioner for sureties for the bond shall be a charge upon the fund. He shall have charge of, invest and administer the fund. He may establish rules and regulations for the disposition, investment, preservation and administration of the fund. No payment shall be allowed or made by the trustee from said fund as reward, gratuity or compensation to any person for salary or services rendered to or for the trustee except compensation for the expense of procuring sureties on his bond as treasurer. The commissioner may employ members of the clerical staff in such clerical work as may be necessary in the administration of the fund without additional compensation. On or before the first day of February of each year the trustee shall make a verified report, as of the thirty-first day of December next preceding, to the mayor and board of aldermen of the condition of the fund and of his proceedings as trustee, containing a statement of all receipts and disbursements on account of the fund, together with the name and residence of

and the amount paid each beneficiary for or on account of said fund. There shall be an auditing committee consisting of three members of the department to be appointed by the mayor. This committee shall, on or before the first day of March in each year, examine the condition of the pension fund and audit the account of said trustee and make report to the mayor within thirty days thereafter.

§ 1041. Funds to be paid trustee; exemption from execution and process. All moneys, securities, revenues and incomes belonging to the fund shall be paid over and delivered to the commissioner, as trustee. The moneys, securities and effects of the fund, and all pensions granted and payable therefrom, shall be exempt from execution and from all process and proceedings to enjoin the payment or disposition of or to recover the same by or on behalf of any creditor of or claimant against, a beneficiary of the fund. A person who knowingly or willfully makes or procures the making or presentation of a false or fraudulent affidavit concerning any claim for pension or payment thereof shall forfeit a sum not exceeding two hundred and fifty dollars, to be sued for and recovered by and in the name of the trustee, and, when recovered, paid over to and become a part of the pension fund.

§ 1042. Composition of pension fund. The pension fund shall consist of:

1. After October first, nineteen hundred and eleven, a sum of money equal to, but not greater than, three per centum of the weekly or monthly compensation of each member of the department, to be deducted, weekly or monthly, as the case may be, from the compensation of each member of the department and to be paid to the treasurer of the pension fund.

2. All compensation forfeited, deducted or withheld from any member of the department of street cleaning on account of fines, forfeitures, suspensions or absence from any cause, lost time, sickness or other disability, physical or mental, to be paid monthly to the treasurer of the fund, except in the case of a sweeper, driver, hostler, stableman or other employee who may have been sick or absent from any cause, and whose position has been filled by an extra sweeper, driver, stableman or other temporary employee, to whom compensation has been paid.

3. All moneys received for the privilege of scow trimming or assorting of refuse at the various dumps in the boroughs of Manhattan, Brooklyn or Bronx, or at any other place where refuse

may be disposed of in said boroughs, excepting in so far as such privilege be given to contractors under any contract now in force. All contracts hereafter made shall stipulate that the proceeds from such trimming or assorting of refuse be paid to the treasurer of the fund.

4. All moneys received from the sale of steam or house ashes, garbage and refuse, collected by the department, and moneys received for the disposal of such steam or house ashes, garbage or refuse.

5. All proceeds of sales of condemned horses or other property of the department, except real property; and so much of the proceeds of sales of unharnessed trucks, carts, wagons and vehicles, and of boxes, barrels, bales or other merchandise, or other movable property, found in any public street or place and removed therefrom by the commissioner and sold by him, as exceeds the expense of such sales and which is not payable to the owners of the incumbrances sold; and all moneys collected for the release of merchandise, unharnessed vehicles or movable property removed as aforesaid.

6. All unexpended balances of appropriations for the payment of compensation of the members of the department after the allowance of all claims payable therefrom. Such unexpended balances remaining after the expiration of the year for which appropriated, after allowing sufficient to satisfy all claims payable therefrom shall be paid to the trustee.

7. All gifts or bequests which may be made to the fund or the commissioner of street cleaning as trustee thereof.

§ 1043. Retirement of and pensions to members. The commissioner shall retire and dismiss members of the department from membership therein and thereupon grant annual pensions, during the lifetime of the beneficiary which shall not be revoked, reduced or diminished as follows:

1. Upon his own application in writing, to a member of the age of sixty years, who shall have served for a period of at least twenty-five years, whether continued or rendered at different periods, a sum equal to one-half his annual salary;

2. To a member, who, in the performance of duty, and by reason thereof, and without fault or misconduct on his part, shall have become permanently disabled, physically or mentally so as to be unfitted to perform duty in the department a sum not exceeding one-half his annual salary;

3. To a member, who shall, after ten years of service by reason of disability, physical or mental, have become, without fault or misconduct on his part, unfitted or unable to perform duty in the department, a sum, in the discretion of the commissioner, equal in amount to not less than one-fourth nor more than one-half his annual salary.

§ 1044. Pensions to dependents. The commissioner shall grant annual pensions to the dependent parents, widow or children of a deceased member of the department as follows: If such member shall have been killed in the actual performance of duty or have died from the effects of injury received in the actual discharge of duty and leave a dependent widowed mother but no widow, or children under eighteen years of age, a sum not to exceed two hundred dollars to such widowed mother; if he leave a widow, or a widow and child or children under eighteen years of age, a sum not to exceed two hundred dollars to the widow or widow and child or children, or if the widow die or remarry, to the child or children; or if he leave no widow but a child or children under eighteen years of age, a sum not to exceed two hundred dollars to such child or children. If such member die after ten years of service or after retirement upon a pension and leave a widow or widow and child or children under eighteen years of age, a sum not to exceed two hundred dollars to the widow or the widow and child or children, or if the widow die or remarry, to such child or children; or if he leave no widow but a child or children under eighteen years of age, a sum not to exceed two hundred dollars to such child or children.

Pensions granted under this section shall be paid from the date of the death of the member and if there be more than one beneficiary shall be divided among the beneficiaries in such proportion as the trustees may, from time to time, direct.

§ 1045. When certain pensions terminate. Pensions to widows shall terminate when the widow remarry and pensions to a child shall terminate whenever the child marry or arrive at the age of eighteen years.

§ 1046. Certificate of disability; rules as to pensions. No member shall be granted a pension on account of physical or mental disability, unless a certificate of not less than three physicians selected by the commissioner, setting forth the cause, nature and extent of the disability of the member, be filed in the department. The determination of the surgeons shall be final.

§ 1047. Salary deductions. No deduction shall be made from the compensation of any member of the department who was a member thereof prior to the first day of September, nineteen hundred and eleven, unless such member consent thereto in writing filed with the commissioner and comptroller before the first day of October, nineteen hundred and eleven, and to abide by the provisions of this article; and any such member who fails to file such consent as aforesaid shall not be entitled to the benefit of the pension fund. Such deduction shall be made from the compensation of every person who shall hereafter become a member of the department and each such member shall be entitled to the benefit of the fund.

§ 1048. When pensions to be paid. No person shall be paid under the provisions of this act prior to January first, nineteen hundred and thirteen.

§ 1049. Deferred payment of pensions. Pensions as provided herein to members who shall have become disabled or to the dependents of members who shall have died subsequent to September first, nineteen hundred and eleven, and prior to January first, nineteen hundred and thirteen, shall be payable on and after said last mentioned date.

## CHAPTER XXVIII.

### DEPARTMENT OF LICENSE.

Section 1060. Commissioner of licenses; deputies; secretary.

1061. Jurisdiction.

1062. Licenses authorized by ordinance.

Section 1060. Commissioner of licenses; deputies; secretary. The head of the department shall be the commissioner of licenses. He shall appoint two deputies, to be known as first and second deputy and a secretary. The commissioner, first and second deputy shall have the power and perform the duties of the present commissioner of licenses, deputy commissioner of licenses and chief of the bureau of licenses, respectively, until the commissioner otherwise prescribe.

§ 1061. Jurisdiction. The department shall have charge and control of the granting, issuing, transferring, renewing, revoking and canceling of all licenses, the issuance of which by a city department, board, body, bureau, office, officer or employee is authorized by statute or ordinance, except marriage licenses, and



licenses, permits and certificates specifically authorized by this act to be issued by a different department, board, body, office, officer or employee. The mayor, whenever in his judgment the public interests require, may appeal or revoke a license issued for a place for public exhibition or amusement.

§ 1062. Licenses authorized by ordinance. Where, under sections of acts constituted by this act sections of the code of ordinances, jurisdiction of licenses is vested in a department, board, body, office or officer, the department of licenses shall hereafter have jurisdiction thereof, unless other provision therefor be specifically made in this act.

## CHAPTER XXIX.

### DEPARTMENT OF MARKETS, WEIGHTS AND MEASURES.

Section 1070. Head of department.

1071. Control of markets.

1072. Market privileges and revenues.

1073. Market lands.

1074. Control of weights and measures.

Section 1070. Head of department. The head of the department shall be the commissioner of markets, weights and measures. He shall appoint two deputies and a secretary.

§ 1071. Control of markets. The department shall have the control of all public markets, market places and market lands of the city and of all vehicles employed in the business of selling fish, meats, farm and garden produce in the city. Subject to the provisions of the code of ordinances, the commissioner shall have power to make suitable regulations concerning fees for market privileges, the hours during which said business shall be conducted and the general management of the same, including the authority to grant, transfer or revoke licenses or permits to vend and sell in markets, or upon market lands.

§ 1072. Market privileges and revenues. All stalls and stands in markets or on market lands shall be rented or permits to be issued by the commissioner, or an officer or employee of the department designated and empowered by the commissioner to issue such permits, and such permits heretofore issued by the comptroller, or hereafter issued, as provided in this section, may be revoked for cause by the commissioner. All market rents and all

revenues derived from permits for the use of space or accommodations in markets, or upon market lands, shall be collected by the chamberlain.

§ 1073. Market lands. In addition to the markets established by statute or ordinances the following shall be public markets:

1. The lands bounded on the north by Bloomfield street, on the south by Gansevoort street, on the east by West street and Tenth avenue, and on the west by Thirteenth avenue in the borough of Manhattan, which are hereby dedicated to market purposes.

2. The block of ground bounded on the north by Little Twelfth street, on the south by Gansevoort street, on the east by Washington street, and on the west by West street and Tenth avenue in the borough of Manhattan, for the exclusive use of farmers and market gardeners.

3. The Wallabout market and market lands in the borough of Brooklyn. The portion thereof commonly known as "farmers' square" shall be kept for the exclusive use of farmers and market gardeners; provided, that nothing herein contained shall interfere with the jurisdiction of the dock department, and that no certificate shall be issued permitting the sale or offering for sale of any distilled or rectified spirits, wine or fermented or malt liquors within the limits of said market lands.

§ 1074. Control of weights and measures. The department shall have charge and control of the inspection, examination, testing, sealing and marking of weights, scales and measures and the seizure of false, short or unsealed weights, scales and measures. The commissioner shall have the power and perform the duties of the present commissioner of weights and measures in charge of the mayor's bureau of weights and measures.

## CHAPTER XXX.

### DEPARTMENT OF ARCHITECTURE.

Section 1080. City architect.

1081. Jurisdiction.

1082. Plans and specifications; supervision.

1083. Building contracts; architect's certificate.

1084. Limitations.

Section 1080. City architect. The head of the department shall be the city architect. He shall be an architect of at least fifteen

years' practical experience. He shall be a member, ex-officio, of the art commission. He shall appoint a secretary.

§ 1081. Jurisdiction. The department shall, as provided herein, prepare plans and specifications for and supervise the construction and alteration of public buildings and structures of the city or a county.

§ 1082. Plans and specifications; supervision. The city architect shall, upon the request of a head of department, board, body or office of the city or a county, prepare and furnish plans and specifications for the construction or alteration of a building or structure proposed to be erected or altered by or for the use of such department, board, body or office, and supervise the construction or alteration of the same. Any such head of department, board, body or office may, when authorized by the board of estimate by twelve votes, employ other architects to prepare plans and specifications for and other persons to supervise the construction or alteration of any such building or structure, with whom the city architect, as directed by the board of estimate, shall co-operate.

§ 1083. Building contracts; architect's certificate. No payment shall be made, on account or in full, upon a contract, hereafter made, for the construction or alteration of a public building or structure, constructed or altered under the supervision of the department without the certificate of the city architect or architect employed pursuant to authority given by the board of estimate that such payment has been earned and is due, in accordance with the contract and the plans and specifications for such building or structure.

§ 1084. Limitations. The terms building or structure, or their equivalents, as used in this chapter, shall not include a bridge, tunnel, subway or an appurtenance thereof; or a building or structure for water supply purposes; or a dock, pier, wharf or bulkhead, except a public building thereon. This chapter shall not exempt public buildings and structures of the city or a county from the requirements or restrictions of the provisions of any statute or ordinance regulating the construction, alteration or removal of buildings in the city.

## CHAPTER XXXI.

## ART COMMISSION.

Section 1090. Composition.

1091. Members ex-officio; proxies.

1092. Present members continued.

1093. Organization.

1094. Jurisdiction.

1095. Work of art defined.

1096. Buildings or structures in or extending over or upon public property.

1097. Time for decision limited.

Section 1090. Composition. The art commission shall be composed of:

1. The mayor;
2. The city architect;
3. The president of the Metropolitan Museum of Art;
4. The president of the New York Public Library (Astor, Lenox and Tilden foundations);
5. The president of the Brooklyn Institute of Arts and Sciences and,

6. Six members, appointed by the mayor, three of whom shall be artists, a painter, a sculptor and an architect, and three others, none of whom shall be artists. The appointive members shall be residents of the city and be appointed from a list of not less than three times the number to be appointed, nominated by the Fine Arts Federation of New York. If the Federation fail to present a list twenty days before the expiration of the term of an appointive member or within ten days after a vacancy occurring otherwise than by expiration of term the mayor may appoint without such nomination. The term of office of each appointive member shall be three years.

§ 1091. Members ex-officio; proxies. Each head of a department may sit and vote as a member of the commission when it is considering any matter relating to his department. Each president of an institution named in the preceding section may designate a trustee of such institution to serve in his place during his term, which designation shall be revocable.

§ 1092. Present members continued. Members of the commission serving, pursuant to appointment of the mayor, shall continue in office for the remainder of their respective terms.

§ 1093. Organization. The commission shall elect a president and vice-president from its members, whose terms of office shall be for one year, and shall appoint a secretary. The commission may adopt rules of procedure, and six commissioners shall constitute a quorum. The members of the commission shall serve without compensation.

§ 1094. Jurisdiction. No work of art shall hereafter become the property of the city by purchase, gift or otherwise, until the same, or the design thereof, together with the location proposed, shall have been approved in writing by the commission; nor shall any such work be contracted for or placed in, upon or over a street, public building, public place or other real property owned by the city without like approval. The commission may require the submission to it of a complete model of any work of art proposed to be placed in, upon or over any public building, street or other public place. No work of art of the city shall be removed, relocated or changed without the approval of the commission, unless the mayor certify to the urgency of immediate action, in which case the approval of the commission shall be presumed, unless, within forty-eight hours after notice of such certification, the commission disapprove and notify the mayor of such disapproval and present another plan satisfactory to him.

§ 1095. Work of art defined. The term "work of art" shall include paintings, mural decorations, stained glass, statues, reliefs, sculptures, monuments, columns, arches, tablets, fountains or other structures of a permanent character intended for ornament or commemoration.

§ 1096. Buildings or structures in or extending over or upon public property. No building, bridge, approach, gate, fence, lamp or other structure shall be erected upon or extended over a street, public building, public place or other real property owned by the city, without the consent of the board of estimate, and approval of the design and location by the art commission. The lines, grades and plotting of public grounds shall be subject to like approval of the commission.

§ 1097. Time for decision limited. If, within sixty days after submission, the commission fail to disapprove a matter submitted, its approval shall be presumed.

## CHAPTER XXXII.

## MUNICIPAL CIVIL SERVICE COMMISSION.

Section 1100. Commissioners; secretary.

1101. Civil service rules.

1102. County service.

Section 1100. Commissioners; secretary. The mayor shall appoint three persons, not more than two of whom shall be members of the same political party, to be municipal civil service commissioners. The commissioners shall constitute the municipal civil service commission. One of the commissioners shall be president of the commission and shall be so designated in his appointment. The annual salary of the president of the commission shall be seven thousand five hundred dollars and of the other commissioners six thousand dollars. The commission shall appoint a secretary. The commissioners shall be appointed and removed only by the mayor.

§ 1101. Civil service rules. The commission shall have exclusive power to prescribe, amend and enforce rules, not inconsistent with the provisions of the constitution and the civil service law, for the classification of the offices, positions and employments in the classified service of the city and each county; for appointments, promotions, transfers, removals, reinstatements and changes of statutes therein; and for the resignation and selection of laborers for employment therein. It may alter and amend the same. Such rules and any alteration, modification or amendment thereof shall take effect upon approval by the mayor and shall not require or be subject to the approval or action of the state civil service commission.

§ 1102. County service. The officers and employees of each county shall for all of the purposes of the civil service law be deemed to be city officers and employees and subject only to the jurisdiction of the municipal civil service commission. All civil service lists prepared by the state civil service commission, of persons eligible for appointment or reinstatement in any board, body or officer of a county, now in force, shall continue for one year, and the names of persons on such lists may be certified by the municipal civil service commission for appointment or reinstatement.

## CHAPTER XXXIII.

## PUBLIC RECREATION COMMISSION.

Section 1110. Composition of commission; secretary.

1111. Organization of commission.

1112. Powers of commission.

1113. Rules and regulations.

1114. Assignment of property to commission.

1115. Matters relating to recreation to be referred to commission.

Section 1110. Composition of commission; secretary. The mayor may establish a public recreation commission. If so established, the president of the park board, a commissioner of education to be designated by the mayor and five persons appointed by the mayor shall constitute the commission. The mayor shall appoint members of the commission for such terms that the term of one member shall expire on the thirty-first day of January each year, and shall designate the term of each in the certificate of appointment. Their successors shall be appointed in like manner for terms of five years each. The appointive members may be removed by the mayor for cause, after notice and an opportunity to be heard. The members of the board shall serve without compensation.

§ 1111. Organization of commission. The commission shall elect a president from its number and shall elect a secretary who shall be its chief executive officer.

§ 1112. Powers of commission. The commission shall have supervision, charge and control of:

1. Playgrounds, playground fixtures and other recreational properties placed under its charge by the sinking fund commission;

2. Real property hereafter obtained by the city either through purchase, gift or loan for playground or recreational use;

3. The acquisition by lease or gift of private property for playground purposes, but there shall be no expenditure of city funds upon the equipment or administration without the consent of the board of estimate to the securing of such property and its approval of the terms by which they are taken;

4. Gifts made to the city for recreational purposes of which it shall make full and complete annual financial statement to the

comptroller, including an accounting of receipts and disbursements of all private or city funds under its control.

§ 1113. Rules and regulations. The commission may adopt rules and regulations for the administration of all property under its control.

§ 1114. Assignment of property to commission. The sinking fund commission may assign to the commission for temporary use any city property it may deem suitable for recreation purposes, provided that upon one month's written notice from the sinking fund commission such property shall be returned to the full control of the sinking fund commission.

§ 1115. Matters relating to recreation to be referred to commission. All matters relating to recreation brought before the board of estimate, including the proposed purchase of grounds or properties for recreation use, shall be referred to the public recreation commission for report before final action.

## CHAPTER XXXIV.

### BOARD OF CITY RECORD.

Section 1120. Board of City Record; City Record to be published daily.

1121. Contents and distribution of the City Record.

1122. City advertising; corporation newspapers.

1123. City printing, blank books and stationery.

1124. Assessed valuations of real property; land value maps.

1125. Lists of registered and enrolled voters.

1126. Civil list.

1127. Office hours of departments and courts; official canvass; list of registered plumbers.

Section 1120. Board of City Record; City Record to be published daily. The mayor, corporation counsel and comptroller shall constitute the board of City Record. The board shall appoint a supervisor of the City Record, a deputy supervisor of the City Record and a secretary. The City Record shall be published daily, Sundays and legal holidays excepted, and the expense of the publication and distribution of the City Record and supplement, except the compensation of the supervisor, deputy, secretary and assistants, shall be determined by contract.



§ 1121. Contents and distribution of the City Record. Only official matters relating to the city or the counties shall be published in the City Record and supplements thereof. The contract for the publication of the City Record and supplements shall provide for furnishing free of charge to the city such number of copies as shall be determined by the board, to be distributed to such departments, boards, bodies and offices as the board determine; also to every newspaper regularly published in the city, upon application, two copies, and to every public library or public institution in the city, upon application, one copy. Copies of the City Record or supplements thereof shall be furnished and sold by the supervisor at a price to be fixed by him, and the proceeds thereof shall be paid into the city treasury to the credit of the general fund. The supervisor shall cause a continuous series of the City Record to be bound as completed monthly, and to be deposited, with his certificate thereon, in the office of the register of deeds of the county of New York and of the county of Kings in the county clerk's office in each of the counties, and in the office of the city clerk, and copies of the contents of any part of the same, certified by such register, county clerk or city clerk, shall be received in judicial proceedings as *prima facie* evidence of the truth of the contents thereof. The mayor may order the insertion of any official matter or report in the City Record.

§ 1122. City advertising; corporation newspapers. The City Record and the newspapers now by law designated as corporation newspapers shall be the only papers to be included within the term corporation newspapers as the same is used in this act; but no notice of advertisement shall be inserted in any corporation newspaper other than the City Record, except such as relates to the borough of Brooklyn, and the aggregate amount to be paid to said newspapers shall not exceed in any year the sum now paid to said newspapers annually. All city advertising except as in this act otherwise provided, and all notices required by law or ordinance to be published in corporation newspapers, shall be inserted, at public expense, only in the City Record, and publication therein shall be a sufficient compliance with any law or ordinance requiring publication of such matters and notices; but there may be inserted in two morning and two evening and two weekly or semi-weekly papers published in the English language, and in one paper, to be designated by the board, published in each of the following languages—German,

French, Italian and such other languages as shall be determined by the board—brief advertisements, calling attention to any contracts or obligations advertised for letting or sale and referring for full information to the City Record. Where such notices and advertisements respect matters occurring within or relating to the borough of Brooklyn, they shall also be published in the corporation newspapers published in the borough of Brooklyn, at rates not exceeding those now paid to said newspapers for like advertisements, and where such notices and advertisements respect matters occurring within or relating to any other borough they shall be published in such newspapers published in the borough as may be designated by the board. Advertisements of the sale of real estate or city obligations may be inserted in such other newspapers as the board may determine.

§ 1123. City printing, blank books and stationery. All printing for the city and for the counties shall be executed, and all stationery and blank books shall be supplied under contracts to be entered into by the board, which may, however, authorize any printing to be done or stationery or blank books to be supplied without advertising and public letting. Except as printed in the City Record not more than two thousand copies of any message of the mayor, or report of a head of a department, board, body or office, and not more than one thousand copies of any report of a committee of the board of aldermen shall be printed without the consent of the board of estimate.

§ 1124. Assessed valuations of real property; land value maps. The supervisor of the City Record shall cause the record of the assessed valuation of real property, delivered to him by the tax department, to be published annually in the City Record in type not smaller than nonpareil, within ninety days after delivery. Such record of the assessed valuation of real property of each section, district or ward, shall be printed separately as a supplement. On each supplement shall be printed the number of the section, district or ward therein contained, its boundaries or an outline map, and the name of the borough in which situated. If the tax department require the supervisor shall annually print the land value maps as supplements.

§ 1125. Lists of registered and enrolled voters. The board of elections shall deliver to the supervisor of the City Record and he shall cause to be published therein the lists of names of registered voters, and transcripts of enrollment books required by the elec-

tion law to be printed or published by the board of elections, arranged consecutively by assembly districts, and by election districts of assembly districts, and by house numbers consecutively in each street, in the manner and within the time provided in said law. The registry lists and transcripts of enrollment books of each assembly district shall be printed separately in pamphlet form as a supplement to the City Record.

§ 1126. Civil list. There shall be published in the City Record within the month of July a list of all the officers and employees, other than laborers, of the city and the counties, who have been or have become such officers or employees during the preceding year. Such list shall contain the name, residence by street number, nature of and date of entrance into the service or employment, the date of cessation thereof, if any, the salary or compensation received and a statement of any increase or decrease thereof during said period. All changes affecting officers or employees, or their salaries or compensation shall be published in the City Record within one week after they are made. The head of each department, board, body and office and each officer shall furnish to the supervisor of the City Record all matters within his jurisdiction required to be inserted therein.

§ 1127. Office hours of departments and courts; official canvass; list of registered plumbers. There shall be published in each issue of the City Record a statement of the hours during which all public offices in the city are open for business, the time when each court regularly opens and adjourns and the location of such offices and courts. There shall be published in the City Record once in each year a statement of the canvass of votes cast at every election, a list of the registered plumbers in the city and any official matter or report ordered by the mayor.

## CHAPTER XXXV.

### BOROUGH OFFICERS.

Article 1. Borough president. (§§ 1130-1143.)

2. Coroners. (§§ 1150-1159.)

### ARTICLE 1.

#### BOROUGH PRESIDENT.

Section 1130. Borough president.

1131. Vacancies; how filled.

1132. Executive staff.

- Section 1133. Engineers and architects.  
1134. Borough halls.  
1135. Bureau of encumbrances.  
1136. Powers and duties of borough president.  
1137. Street cleaning in Queens and Richmond.  
1138. Removal of ice and snow.  
1139. Opening and replacing pavements; permits.  
1140. Drains ordered by health department.  
1141. Temporary sewers.  
1142. Private sewers.  
1143. Sewers constructed on behalf of private owners.

Section 1130. Borough president. The head of the department shall be the borough president. A borough president shall be chosen by the electors of each borough, for a term of four years, at the election at which a mayor is chosen for a full term. The borough president shall receive an annual salary of seven thousand five hundred dollars.

§ 1131. Vacancies; how filled. Within ten days after a vacancy occur in the office of borough president, the mayor shall call and preside at a meeting of the aldermen elected from the borough. The vacancy shall be filled by a majority vote of all the aldermen elected from the borough, but in the event of a tie the mayor shall cast the deciding vote. The term of office of the person so chosen shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election held not less than thirty days after the vacancy occur.

§ 1132. Executive staff. Each borough president shall appoint a commissioner of public works, a superintendent of encumbrances and a secretary, and may appoint an assistant commissioner of public works. In case of a vacancy in the office, or of the absence or disability of the borough president, the commissioner of public works shall act as borough president, but shall not have the power of appointment or removal. The borough president may delegate any of his administrative powers relating to streets, sewers, improvements, public buildings and supplies to the commissioner of public works.

§ 1133. Engineers and architects. A borough president may appoint consulting engineers and architects. A consulting engineer or architect must have had ten years' experience.

§ 1134. Borough halls. There shall be a hall or public building in each borough in which shall be located the office of the borough president and such bureaus and branch offices of city departments as may be practicable.

§ 1135. Bureau of encumbrances. There shall be a bureau of encumbrances, the head of which shall be superintendent of encumbrances.

§ 1136. Powers and duties of borough president. Except as otherwise provided in this act, each borough president, within the borough, shall have power, charge and control of:

1. Opening, closing, extending widening, constructing, repairing, improving, regulating, grading, regrading, curbing, flagging and guttering streets and laying crosswalks;

2. Paving, repaving, resurfacing and relaying pavements;

3. Laying or relaying railroad and street surface railway tracks in a public street, and may prescribe the form of rail, character of foundation and method of construction to be used in such work and the restoration of the pavement or surface of the street after completion;

4. Filling sunken lots, digging down lots and licensing vaults under sidewalks;

5. Removal of incumbrances;

6. Issuing permits for obstructing or disturbing the surface of streets;

7. Constructing and maintaining bridges and tunnels within the borough forming portions of the streets thereof, except bridges within the jurisdiction of the bridge department;

8. Constructing, maintaining and cleaning public sewers, drains, cesspools and cisterns;

9. Construction, repair, care and maintenance of public markets;

10. Constructing, repairing, cleaning and maintaining public buildings;

11. Caring for and cleaning offices, leased or occupied for public purposes;

12. Constructing and maintaining public baths, urinals and comfort stations, and the placing of signs indicating the names of streets.

§ 1137. Street cleaning in Queens and Richmond. The borough presidents of Queens and Richmond shall each have charge and control of the sweeping and cleaning of the streets of the

borough and of the removal and disposition, as often as the public health and use of the streets may require, of ashes, street sweepings, garbage and other refuse and the removal of snow and ice from the main thoroughfares and such other streets as may be practicable, and shall, within the borough, have the powers and duties relating to street cleaning provided for the commissioner of street cleaning within the other boroughs.

§ 1138. Removal of snow and ice. If, in any calendar year the expense of removing snow and ice exceed the amount appropriated therefor, the additional expenditures required for such purpose shall be met by the issue of special revenue bonds, in such amount as shall be certified by the borough president and approved by the board of estimate.

§ 1139. Opening and replacing pavements; permits. No removal of pavement or disturbance of the surface of a street shall be made until a permit be first obtained from the borough president; and when such pavement or street surface shall not have been relaid or restored in a manner satisfactory to the borough president, he may cause a written notice to be served upon the person by whom the same was removed or disturbed; or, if such removal or disturbance shall have been for the purpose of making connection between a house or lot, and a sewer or pipe in a street, or for constructing vaults, or otherwise improving a house or lot, upon the owner or occupant of the house or lot, requiring such person or occupant to relay such pavement or restore such street surface within five days. Such notice may be served upon the owner or occupant by leaving the same with a person of full age upon the premises, or by posting the same thereon; and in case such pavement be not relaid or street surface restored to the satisfaction of the borough president within such time, he may cause the same to be relaid, repaired or restored at the expense of the person by whom it was removed or disturbed, or of the owner of the premises for whose benefit such removal or disturbance was made. After the completion of such work and upon the cost of such work having been ascertained by the borough president, he shall notify, in the manner above provided, the person or corporation by whom such pavement was removed or disturbed, or the owner of the premises for whose benefit such removal or disturbance was made, that at a certain place and time, specified in said notice, not less than five days after the giving of such notice, the person or corporation, or the owner of premises, will be afforded

an opportunity of being heard by the borough president as to the reasonableness of the amount of such cost, and so much of the money so deposited as is not expended for the relaying of the pavement removed and inspection shall be returned to the person who made such deposit, or to his order. Upon certification to the comptroller of the cost of such work, with a description of the premises affected, the comptroller shall pay the same, and the amount so paid shall become a lien and charge upon the premises, and, on being certified by the comptroller to the collector of assessments and arrears, may be collected in the same manner as arrears of taxes. A borough president before issuing a permit may require as a condition thereof the deposit of such sum of money or other security as he may deem necessary to secure the payment of the cost of properly relaying the pavement or restoring the surface of the street and inspection. The inspection shall be performed by inspectors, appointed by the borough president, and paid by the person securing the permit or out of the funds deposited or secured as aforesaid.

§ 1140. Drains ordered by health department. When a borough president receive an order from the health department requiring the drainage of lands, accompanied by a map showing the location of the proposed drains and the land required therefor, he shall prepare and present to the board of estimate plans therefor with an estimate of cost, together with such order and map. Upon the acquisition of the land and appropriation of the money required to defray the cost of the improvement, the borough president shall promptly comply with the order.

§ 1141. Temporary sewers. When it be necessary to construct a sewer to prevent damage to property or abate a nuisance, and impracticable to construct the same immediately in accordance with a plan already adopted, the borough president, with the approval of the board of estimate, may construct a temporary sewer therefor, and the cost thereof shall be assessed upon the property benefited. Such assessments shall be levied and collected as are other assessments for local improvements not confirmed by a court of record.

§ 1142. Private sewers. A permit for the construction of a sewer by private property-owners may be granted as follows:

1. When there be filed with the borough president plans and specifications therefor, conforming to the general plan for the construction of public sewers, and a duplicate copy of the contract

for the construction, showing the cost, together with a guaranty, satisfactory to the borough president, for the payment of the expense of inspection, upon approval of such plans, specifications and contract, by the borough president he may issue a permit for the construction of the sewer and upon its completion the borough president shall certify the cost of construction, including inspection, to the board of assessors, and they shall assess the cost according to benefit upon the several parcels of property abutting on the street or part thereof through which the sewer shall have been constructed. The board of assessors shall report such assessment to the borough president. The borough president shall grant permits for connections with the sewer only to such owners or occupants of abutting property as shall present to him satisfactory proof of payment to the parties who paid for the sewer, of the proportionate part of its cost assessed to the property. Except for the purpose of supervision and use by the city, such sewer shall be the private property of the persons who shall have paid for its construction until all of the assessments therefor shall have been paid. When such assessments shall have been fully paid, the sewer shall be the property of the city, and part of its sewer system.

2. When there shall have been filed with the borough president plans and specifications therefor, and a duplicate copy of the contract for its construction, showing its cost, together with a guaranty, satisfactory to the borough president, for the payment of the cost of construction and inspection, upon approval of the plans, specifications and contract by the borough president he may issue a permit for the construction of the sewer. The borough president may grant permits for connections with the sewer, when constructed, upon such terms and conditions as the board of estimate may fix as equitable between the parties who shall have paid for the sewer and those applying for such permits. When constructed the sewer shall be the property of the city and constitute a part of its sewer system.

§ 1143. Sewers constructed on behalf of private owners. When the owners of land, exceeding one-half in value, according to the last preceding assessment, of a tract of at least thirty acres in one body in a borough, petition for leave to construct and connect sewers upon such tract the borough president shall prepare plans and specifications for such sewers conforming to the general plan for public sewers. The borough president may require satisfactory security for the payment of the expense of preparing the



plans and specifications and advertising for bids. Upon the approval of the plans and specifications by the borough president, he shall, when requested by the petitioners, advertise for bids for the building of such sewers or portion thereof not less than one mile in length, and costing not less than ten thousand dollars. Upon the opening of bids the borough president may award the contract, conditioned upon the deposit of the amount necessary to defray the cost of the sewers. The borough president shall notify in writing the petitioners and the chamberlain of the award and the amount required to be deposited. Within thirty days after such notice the petitioners shall deposit with the chamberlain the amount required. If such deposit be not made within such time, the proceeding shall be abandoned and the expense incurred shall be collected. If the petitioners make the required deposit, the borough president shall execute the contract and construct the sewers. When the sewers shall have been completed, the borough president shall file with the chamberlain and board of assessors a certificate setting forth the amount of the cost of the sewers, including all expenses connected therewith and the accrued interest on the deposit to the date of the certificate, with a map showing the location and character of the sewers. The board of assessors shall assess the amount so certified upon such lands in proportion to the benefit received without regard to value, and such assessment shall be levied and collected as are assessments for local improvements not confirmed by a court of record. The confirmation of the assessment shall be final and conclusive. The board of assessors shall divide the amount assessed upon each parcel into twenty equal annual instalments, and compute interest upon each instalment at the rate of six per centum per annum from the date of the certificate of the borough president to the first day of December in each of the succeeding twenty years, and shall enter each instalment, with interest, in books certified by them and filed in the bureau for the collection of assessments and arrears. On the first day of December in each year, the instalment for such year shall be due and payable and be a lien upon the lands assessed until paid, and the filing of such books shall be the warrant to the collector of assessments and arrears for collecting the instalments as they become due. The owner of a parcel of land so assessed may at any time after the first installment shall have become due pay to the collector of assessments and arrears any unpaid instalment, with a

deduction for interest for the period from the date of payment to the maturity of the instalment. The collector of assessments and arrears shall cause to be printed on all bills for unpaid instalments of assessments a notification that any remaining installment may be paid as aforesaid. All moneys and interest so collected on account of such assessments shall be paid to the petitioners, or their assigns. The chamberlain shall give to the petitioners, making the deposit aforesaid, a certificate in writing, stating that such deposit has been made, and that the holders of the certificate are entitled to receive the money so assessed, with interest at the rate of six per centum per annum, and that the city will pay the same when collected. If the deposit with the chamberlain exceed the cost of the sewers, he shall pay over the surplus to the petitioners or their assigns. If the deposit be not sufficient to complete the sewers, the chamberlain shall require of the petitioners or their assigns to pay the balance needed, and in case of failure to pay the same, the chamberlain shall retain the amount of such balance out of the moneys first collected on account of the assessments. The petitioners may appoint in writing an attorney to represent them, and to receive moneys in their behalf. When completed, such sewers shall become the property of the city and part of its sewer system. The provisions of this section shall not limit the powers of the city in relation to sewers.

## ARTICLE 2.

### CORONERS.

#### Section 1150. Coroners.

- 1151. Vacancies.
- 1152. Powers and duties of coroners.
- 1153. Coroner's physicians.
- 1154. Coroner's office and clerical staff.
- 1155. Experts.
- 1156. Filing of transcripts of testimony.
- 1157. Records.
- 1158. Interference with dead body prohibited.
- 1159. Unusual or suspicious deaths to be reported.

Section 1150. Coroners. At a general election at which a mayor shall be chosen for a full term four coroners shall be elected in and for each of the boroughs of Manhattan and Brooklyn and two in and for each of the boroughs. The term of office of

coroner shall be four years, except that there shall be elected at the general election in the year nineteen hundred and eleven a coroner in and for the borough of Richmond, whose term of office shall expire December thirty-first, nineteen hundred and thirteen. Coroners shall be removable in the same manner as sheriffs. The coroners of a borough shall be a board of coroners.

§ 1151. Vacancies; how filled. Within ten days after a vacancy occur in the office of coroner, the mayor shall call and preside at a meeting of the aldermen elected from the borough. The vacancy shall be filled by a majority vote of all the aldermen elected from the borough, but in the event of a tie vote the mayor shall cast the deciding vote. The term of office of the person so chosen shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election held not less than thirty days after the vacancy occur.

§ 1152. Powers and duties of coroners. Except as otherwise provided herein, coroners shall have the powers and perform the duties prescribed by statute for coroners in counties of the state. The coroners in the boroughs of Manhattan and Brooklyn shall keep open their offices on every calendar day, with a clerk in constant attendance day and night.

§ 1153. Coroner's physicians. The board of coroners of each borough shall appoint coroner's physicians for the borough equal in number to the coroners therein. Each coroner's physician shall be a qualified physician and a resident of the borough in and for which he shall have been appointed. A vacancy in the office of coroner's physician shall be filled by the board of coroners of the borough in which the vacancy exists. The board of coroners of a borough may remove for cause any coroner's physician therein. A coroner's physician shall make such inquiry, examination, inspection or autopsy as may be required by a coroner or by ordinance and testify in relation thereto.

§ 1154. Coroner's office and clerical staff. The board of coroners of each borough shall have an office therein and may appoint a clerk and a stenographer. The stenographer shall take and transcribe complete minutes of all coroner's inquests.

The board of coroners in each borough may designate in writing a clerk or clerks who, during the absence of all of the coroners, may, subject to rules and regulations established by the board of

coroners with the approval of the mayor, issue permits or orders authorizing or directing the removal of the bodies of persons who have died under circumstances which are required to be investigated by a coroner or a coroner's physician.

§ 1155. Experts. A coroner, with the written consent of the district attorney of the county, approved by a justice of the supreme court within the judicial district, may employ such experts as he may require.

§ 1156. Filing of transcripts of testimony and copies of verdicts. Each coroner shall file in the coroner's office of the borough and with the district attorney of the county a transcript of the testimony and proceedings at an inquest held by him.

§ 1157. Records. There shall be kept in the coroner's office in each borough a record alphabetically indexed of the name, if known, of every deceased person reported, the date and cause of death, the place where the body was found, the name of the coroner assuming charge thereof, the date and place of inquest, a transcript of the testimony and proceedings at the inquest, the findings of the jury and such other facts as may be required by law or ordinance.

§ 1158. Interference with dead body prohibited. Where a coroner's inquest is authorized by law, a dead body shall not be embalmed, removed or disturbed without a permit from a coroner or a coroner's physician, or a coroner's clerk authorized to issue permits.

§ 1159. Unusual or suspicious deaths to be reported. The death of a person under unusual or suspicious circumstances shall be immediately reported to a coroner of the borough, or to the coroner's office, or to a police officer.

## CHAPTER XXXVI.

### LOCAL IMPROVEMENTS.

- Article 1. Organization of local boards. (§§ 1170-1174.)
2. Powers of local boards. (§§ 1180-1181.)
  3. Initiation of local improvements. (§§ 1185-1189.)
  4. Assessments for local improvements. (§§ 1195-1208.)
  5. Vacating and modifying assessments. (§§ 1215-1219.)

## ARTICLE 1.

## ORGANIZATION OF LOCAL BOARDS.

Section 1170. Assessment defined.

1171. Local improvement districts.

1172. Local boards.

1173. President to call meetings of local board.

1174. Meetings; secretary; quorum.

Section 1170. Assessment defined. The word "assessment" wherever used in this chapter means an assessment for a local improvement confirmed otherwise than by a court of record.

§ 1171. Local improvement districts. The number and boundaries of local improvement districts may be changed by ordinance. The local improvement districts as now constituted shall continue until so changed. Local improvement districts shall be coterminous with one or more aldermanic districts.

§ 1172. Local boards. There shall be in each local improvement district a board of local improvements to be known as "the local board." Each local board shall consist of the borough president of the borough in which the district is situated, and each member of the board of aldermen who represents an aldermanic district within such local improvement district. The members of the local board shall serve as such members without compensation. The jurisdiction of each local board shall be confined to improvements the expense of which is, in whole or in part, chargeable upon the property of the district or a part thereof. If a proposed local improvement, which may be initiated by a local board, embrace the territory or affect property in more than one local improvement district, the members of the local boards of all the districts affected shall for all proceedings relating to such improvement constitute the local board for the purposes thereof.

§ 1173. President to call meetings of local board. The borough president of each borough shall be the president of each local board in the borough and shall call all meetings of the local boards thereof, and shall give reasonable notice thereof to the members. He shall certify all resolutions, proceedings and determinations of the local boards of the local improvement districts in the borough.

§ 1174. Meetings; secretary; quorum. Meetings of each local board shall be held in the hall or public building of

the borough in which the borough president has his office. The borough president shall call a meeting whenever in his opinion the public interests require, or when he receive the written request of a member of a local board. The secretary of the borough president shall act as the secretary of each local board, without additional compensation. He shall keep a record of all resolutions, proceedings and determinations of the local board, and shall file the same in the office of the borough president, and discharge such other duties as may be prescribed by statute or ordinance, or by the borough president, or the local board. The president of a local board and one other member shall constitute a quorum. The action of a local board shall be by resolution.

## ARTICLE 2.

### POWERS OF LOCAL BOARDS.

Section 1180. Local improvements.

1181. Maps required.

Section 1180. Local improvements. A local board, subject to the restrictions of this chapter, shall have power, where the expense of improvement is to be defrayed in whole or in part by assessment upon the property deemed benefited, to initiate proceedings for the following purposes within the district: To construct tunnels and bridges; acquire title to land for parks, streets, sewers, tunnels and bridges and approaches to either; open, close, extend, widen, improve, grade, pave, regrade, repave, resurface, curb, recurb, flag, reflag, lay, relay and repair or otherwise improve streets and construct sewers, gutters, receiving basins and inlets; set or reset street lamps; provide signs designating the names of the streets; dig down lots or fill in sunken lots. When a local improvement shall have been authorized, the borough president shall execute the same.

§ 1181. Maps required. No contract shall be made for a local improvement until the borough president shall have caused a map or plan of the proposed improvement, showing the probable area of assessment for benefit, with the ward, block and lot numbers or other adequate means for the identification of each parcel of real property in such area, to be made by subordinates in the department and to be filed in the office of the borough president and a copy thereof in the office of the tax department in the borough in which the local improvement is proposed to be made.

## ARTICLE 3.

## INITIATION OF LOCAL IMPROVEMENTS.

Section 1185. Petition for local improvement.

1186. Duty of president on receipt of petition.

1187. Local board; proceedings after petition.

1188. Local improvements without authority of board of estimate.

1189. Board of estimate to act; assessment of expenses; liens.

Section 1185. Petition for local improvement. Subject to the restrictions of this chapter, a local board may initiate a local improvement within its district only upon the written petition therefor, filed with the borough president, subscribed by one or more of the owners of property within the probable area of assessment for such improvement as shall appear by the petition or a map or plan thereof be subjoined to the petition.

§ 1186. Duty of president on receipt of petition. When a petition for a local improvement within the jurisdiction of a local board has been received by the borough president, he shall appoint a time for the meeting of the proper local board, not more than fifteen days thereafter, for submission of such petition and shall cause a notice to be published in the City Record that such petition has been presented to him and is on file in his office for inspection, and of the time and place of such meeting, which time shall not be less than ten days after the first publication of the notice.

§ 1187. Local board; proceedings after petition. The local board, after the submission of such petition and consideration of the same, may, by resolution, authorize the institution of proceedings for the local improvement petitioned for.

§ 1188. Local improvements without authority of board of estimate. A local board may authorize a local improvement, the estimated expense of which do not exceed the sum of two thousand dollars, without the approval of the board of estimate.

§ 1189. Board of estimate to act; assessment of expenses; liens. If the local board, by resolution, authorize the institution of a proceeding for a local improvement, it shall thereupon transmit a copy of such resolution to the board of estimate, which shall promptly consider and approve or disapprove the same, and

return the same to the borough president with its approval or disapproval. If approved he shall thereupon proceed to execute the work authorized by the resolution; but no local improvement shall be authorized until there shall have been presented to the board of estimate an estimate in writing, in such detail as the board may direct, of the cost of the proposed improvement, and a statement of the assessed value, according to the last preceding tax-roll, of the real property included within the probable area of assessment. The expense of any such improvement shall be a lien on the property deemed benefited thereby in proportion to the benefit.

#### ARTICLE 4.

##### ASSESSMENTS FOR LOCAL IMPROVEMENTS.

Section 1195. Board of assessors.

1196. Expense of local improvements not borne by city to be assessed.

1197. Board of revision of assessments; composition.

1198. Powers and duties of board of revision.

1199. Certificates on which assessments are made.

1200. Assessments not to exceed one-half the value.

1201. Paving and repaving of streets.

1202. Description of property.

1203. Notice of completion of assessments.

1204. Award of damages for change of grade.

1205. Payment of awards; action for.

1206. Assessments for grading streets and other property with material excavated in making other public improvements.

1207. Reassessment.

1208. Assessments for water front improvements.

Section 1195. Board of assessors. There shall be a board of assessors consisting of three persons to be appointed by the mayor. It shall appoint a secretary. The board shall make all assessments for local improvements. The board of assessors shall not be enjoined, restrained, hindered or delayed in the performance of its duties.

§ 1196. Expense of local improvements not borne by city to be assessed. The board of assessors shall assess upon the prop-



erty deemed by it to be benefited, in proportion to the benefit, the portion of the expense of a local improvement determined by the board of estimate not to be borne by the city or a borough.

§ 1197. Board of revision of assessments; composition. There shall be a board of revision of assessments to consist of the chamberlain, corporation counsel and president of the tax department. The chamberlain may be represented in the board by a deputy. the corporation counsel by an assistant and the president of the tax department by a tax commissioner designated by him. Each such designation shall be in writing and be filed with the secretary.

§ 1198. Powers and duties of board of revision. The board shall have power:

1. To hear and consider on the merits assessment made by the board of assessors to which objection is made;
2. To take proof and testimony in relation to an assessment;
3. To confirm an assessment;
4. To revise and correct an assessment and confirm the same;
5. To return an assessment to the board of assessors for revision and correction in such respects as it determine, and then to confirm the same.

If an assessment shall not have been confirmed, or revised and corrected and confirmed, or returned for revision and correction within thirty days after it shall have been presented to the board at a meeting thereof for confirmation it shall be deemed confirmed at the expiration of such period. An assessment confirmed as provided in this section shall be returned by the board of revision to the chamberlain for entry and collection.

§ 1199. Certificates on which assessments are made. Assessments shall be made by the board of assessors on the following certificates:

1. The borough president charged with the execution of the work which is the subject of assessment shall, within thirty days after the final acceptance of the work, certify to the board of assessors the total amount of all expenditures actually incurred by the city on account thereof and the portion thereof to be assessed upon the property deemed benefited is determined by the board of estimate, and the board of aldermen if required.

2. The chamberlain shall certify to the board of assessors the amount of the interest upon the several installments advanced or payments made on account of such work, from the time of

such payments or advances, to a day sixty days after the date of the certificate.

The board of assessors shall thereafter assess upon the property deemed by it to be benefited the aggregate amount of such certificates, or such proportion thereof as is authorized by law to be assessed thereon.

§ 1200. Assessments not to exceed one-half the value. The board of assessors shall not assess upon any real property improved or unimproved more than one-half its fair value before the improvement.

§ 1201. Paving and repaving of streets. Street pavements shall be divided into two classes: permanent pavements and preliminary pavements. The board of estimate shall from time to time determine and designate the kinds of pavement to constitute each class. The expense of repaving a street or portion thereof which, within ten years heretofore, has been or shall hereafter be paved with a permanent pavement shall not be assessed upon the property deemed benefited thereby unless the owners of at least one-half in linear feet of the property abutting upon the line of the improvement petition for the same as a local improvement. If a street or portion thereof that has been within five years heretofore or shall hereafter be paved or repaved with a preliminary pavement be repaved it shall be repaved with a permanent pavement as a local improvement unless the owners of at least one-half in linear feet of the property abutting upon the line of the improvement petition for a repaving with preliminary pavement as a local improvement. If a street or portion thereof that has within five years heretofore been or shall hereafter be paved or repaved with a preliminary pavement as a local improvement be repaved with a permanent pavement as a local improvement, an amount equal to the expense of the preliminary pavement or last laid preliminary repavement assessed upon the property deemed benefited shall be paid by the city and be deducted from the expense of the permanent pavement directed to be assessed upon the property deemed benefited. No part of the expense of paving with a preliminary pavement shall be deducted from the expense of repaving with a preliminary pavement to be assessed upon the property deemed benefited. The board of estimate may determine in any case whether a pavement or repavement was, or whether a proposed pavement or repavement be preliminary or permanent and whether a pavement was or a proposed pavement be a re-

pavement. The determination of the board of estimate shall be final. The provisions of this section shall not apply to sidewalks and shall not be construed to relieve or release the owners of property, grantees of the city of New York or their successors in interest, of or from any covenants to pave or repave or otherwise physically to improve any street or streets.

§ 1202. Description of property. The board of assessors shall describe the property assessed by the numbers or other designations used to identify it on the tax books.

§ 1203. Notice of completion of assessments. The board of assessors, after completing an assessment, shall publish daily in the City Record for at least six days successively, a notice describing the area proposed to be assessed, notifying all persons interested to present objections, if any, in writing, to the board within thirty days from the date of such notice, and specifying a time and place after the expiration of said period for hearing such objections. If, after such hearing, the board shall not make the alterations requested by those objecting, or having altered the assessment there still be objections it shall present the proposed assessment with the objections to the board of revision of assessments, which shall hear and consider the same at a meeting of which at least ten days' notice shall have been published in the City Record. If no objection be received, or if the board of assessors alter the assessment so as to satisfy the objectors the board of assessors shall forthwith declare the assessment confirmed, and shall transmit the same to the chamberlain for entry and collection. An assessment so confirmed shall be of the same force and effect as if confirmed by the board of revision of assessments.

§ 1204. Assessments for grading streets and other property with material excavated in making other public improvements. When material excavated in the course of a public improvement shall, pursuant to the terms of a public contract, be deposited and utilized in filling a street or otherwise, under the direction of the officer having charge of the work, such officer shall certify to the board of estimate the value of such material and other necessary expense of its utilization; and the board of estimate shall determine whether any, and if any, what proportion of such value and expense shall be borne by the city, and certify to the board of assessors the aggregate amount of such value and expense, together with its determination; and the board of assessors shall assess on the property deemed benefited such aggre-

gate, or such portion thereof, as the board of estimate shall have determined not to be borne by the city.

§ 1205. Reassessment. If the lien of an assessment for a local improvement upon real property be for any reason unenforceable, or if the sale of the lien thereof shall have been vacated or set aside, such real property may be again assessed in the manner provided by law and the amount so assessed shall be a lien on said real property until paid, and shall be collectible in the manner provided by law for the collection of assessments for local improvements. All proceedings to make a new assessment shall be at the expense of the city.

§ 1206. Assessments for water front improvements. The expense of conforming to any order of the commissioner of docks assessable upon the property deemed benefited shall be certified by the commissioner to the board of assessors, shall be assessed by the board of assessors upon the water front property repaired or adjacent to which the water may have been deepened, and benefited thereby, in proportion, as nearly as may be, to the benefit thereto. Every such assessment shall be subject to review by the board of revision of assessments and shall be binding and conclusive upon the owners and a lien upon the property assessed, and shall be collected and enforced as an assessment for a local improvement.

§ 1207. Award of damages for change of grade. Where a change of grade of a street has been heretofore made, the liability for and the right to receive compensation for damages caused thereby shall be governed by the laws in force at the time of such change. Hereafter there shall be no liability to abutting owners for originally establishing a grade, or for changing an established grade, except where the owner of the abutting property has, subsequent to such establishment of grade, constructed buildings or made other improvements upon the property in conformity with such established grade, and such grade is changed after such buildings or improvements have been made, in which case the damages occasioned to such buildings or improvements shall be ascertained and assessed. The damages occasioned by a change of grade shall be ascertained and assessed in connection with and as a part of the expense of grading, paving, regulating or otherwise improving the street in conformity with the grade as changed. After the certificate of the expense of such improvement shall have been received by the board of assessors, it shall be the duty of the board of assessors to cause to be published in the City

Record, for at least six days successively, a notice to all persons claiming to have been damaged by the change of grade to present, in writing, to the secretary of the board, their claims, at a place and time where and when the board will receive evidence of the nature and extent of such damage. After hearing and considering such evidence the board shall make awards for the damage, if any, sustained, as it may deem proper. The amount of said award shall be included in the assessment for grading, paving, regulating or otherwise improving the street, as a part of the expense thereof. This section shall not authorize the making of an award for loss or damage caused by a change of grade in any case in which an award could not be legally made under the laws existing on the thirty-first day of December, eighteen hundred and ninety-seven. Interest on the amount of an award for damages for change of grade shall be allowed only from the date on which such amount shall have been fixed by the board of assessors. This section shall not affect the powers of any commission acting under any other statute.

§ 1208. Payment of awards; action for. The city shall, within four months after confirmation of any assessment including awards made pursuant to the provisions of the next preceding section pay the same; and in case of failure to pay the same the persons entitled thereto may, after demand, recover their awards by action. If any such award be paid to a person not entitled thereto, the person to whom the same ought to have been paid may sue for and recover the same with interest and costs, as money had and received to his use from the person or persons to whom the same shall have been paid. If the name of an owner be not set forth in the report of the assessors, or if an owner be under legal disability, or be absent from the city, or after diligent search cannot be found, or his title to the award be disputed, the city may pay the award to the chamberlain, to be subject to the direction of the court, and such payment shall be as valid and effectual as if made to the owner.

## ARTICLE 5.

### VACATING AND MODIFYING ASSESSMENTS.

Section 1215. Remedies limited.

1216. Petition in case of fraud or substantial error.

1217. Assessments not to be affected by certain irregularities.

Section 1218. Power of court to vacate or reduce assessments limited and qualified.

1219. When proceedings to be brought.

§ 1215. Remedies limited. No action to vacate an assessment or remove a cloud upon title by reason thereof or to recover moneys paid for an assessment, and no certiorari to review a determination with respect to an assessment shall be maintained; but owners of property shall, with respect to assessments and the recovery of moneys paid for assessments, be confined to the proceedings for which provision is made in this article.

§ 1216. Petition in case of fraud or substantial error. If fraud or substantial error be alleged to have been committed in a proceeding relative to an assessment for a local improvement, or in a proceeding to collect the same, the party aggrieved may apply to a justice of the supreme court at special term or chambers for an order vacating or modifying the assessment. The justice shall, upon notice to the corporation counsel, hear the proofs and allegations. If it appear that the alleged fraud or substantial error, other than an error specified in the next section has been committed, the assessment shall be vacated or modified, and the lien created thereby, or by subsequent proceedings, shall cease. If it shall appear that, by reason of an alleged irregularity the expense of a local improvement has been increased, the justice may order the assessment upon the real property of the aggrieved party modified by deducting therefrom a sum bearing the same proportion to the assessment as the amount of the unlawful increase bears to the whole expense of the improvement. If it appear on the face of the proceedings or otherwise that an assessment, not confirmed by a court, was made without authority he may order the same vacated and canceled and all moneys paid thereon refunded. Such order shall be filed in the office of the county clerk of the county in which the real property is situated, and after the filing of a certified copy thereof with the chamberlain he shall cancel or reduce the assessment as required by the order.

§ 1217. Assessments not to be affected by certain irregularities. No assessment for a local improvement heretofore or hereafter made shall be vacated by reason of any omission to advertise, or irregularity in advertising any resolution, notice or other proceeding relative to the improvement or bids therefor or of the omission of any officer to perform any duty or of any irregularity or technicality in which fraud be not shown; and all property deemed

benefited by an improvement, except as aforesaid, shall be liable to assessment for such improvement, and all assessments therefor shall be valid notwithstanding any such omission, irregularity, defect or technicality. No assessment shall be vacated by reason of fraud or irregularity in the proceedings to collect the same by sale of the tax lien therefor; but, upon proof of such fraud or irregularity, the sale shall be vacated and rights of the owners of the property assessed and of the city shall be the same as if the sale had not been made.

§ 1218. Power of court to vacate or reduce assessments limited and qualified. The court shall not reduce an assessment for a local improvement except to the extent that the same may be shown to have been increased in dollars and cents by reason of fraud or substantial error; and in no event shall an assessment, not void for want of authority, be reduced below the fair cost of the improvement, with interest at the rate of three per centum per annum from the date of confirmation to the date of the final order of reduction and seven per centum thereafter. The provisions of this section shall apply to actions to recover money paid for assessments, and the amount recovered shall be limited to the excess over the fair cost of the improvement.

§ 1219. When proceedings to be brought. All proceedings to vacate or reduce assessments must be brought within one year after the confirmation thereof.

## CHAPTER XXXVII.

### CONTRACTS.

Section 1230. Power to contract; contracts, how made.

1231. Contracts by public letting.

1232. Open market orders.

1233. Extra or additional work or supplies.

1234. Security; opening of bids.

1235. Defaults; reletting; modification of contracts.

1236. Comptroller's indorsement as to funds available.

1237. Deposit of bids.

1238. Payments to contractors.

1239. Payments on contracts not chargeable to street improvement fund.

1240. Payments on contracts payable from street improvement fund.

Section 1241. Contracts for pavements; conditions.

1242. Observance of prison law.

1243. Patented pavements.

Section 1230. Power to contract; contracts, how made. The head of each department, board, body or office may contract on behalf of the city for work or supplies only as provided in this act.

§ 1231. Contracts by public letting. When work is to be performed or supplies are to be furnished, and the several parts of such work or supplies together involve an expenditure of one thousand dollars or more, the same shall be performed or furnished by contract made after due advertisement and public letting, under regulations established by ordinance, except such work or supplies as may be specially authorized by statute, or by the board of estimate by the votes of members entitled to cast at least twelve votes, to be performed or furnished otherwise than by contract after advertisement and public letting. Each such contract shall be in writing and be executed in the name of the city by the head of the department, board, body or office authorized to make the same and by the contractor. It shall be executed in triplicate. Within five days after such a contract shall have been executed one copy thereof shall be filed with the comptroller, together with a copy of each resolution or ordinance, if any, authorizing the work or supplies; one copy shall be filed in the office of the head of the department, board, body or office making the contract, and the third shall be delivered to the contractor. Each such contract shall be founded on sealed bids, made after public notice duly advertised in the City Record, which notice shall be published for ten days. If the head of a department, board, body or office do not deem it for the interest of the city to reject all bids, he shall, without the consent or approval of any other officer, award in writing the contract to the lowest bidder, and give written notice of the award to the comptroller and to such bidder, unless the board of estimate by the votes of members entitled to cast at least twelve votes decide that it is for the public interest that a bid other than the lowest be accepted. The terms of the contract shall be settled by the corporation counsel as an act of preliminary specification to the bid.

§ 1232. Open market orders. When work is to be performed or supplies are to be furnished and the several parts of such work or supplies together involve an expenditure of less than one thousand dollars, the same may be contracted for without adver-



tisement or public letting. The contract therefor, unless made by public letting, shall be in the form of a written order, signed by the head of department, board, body or office authorized to contract for the same; provided the head of the department, board, body or office contracting for or ordering such work or supplies certify that the same be necessary and that an appropriation has been made therefor. Such contract shall be termed "open market order."

§ 1233. Additional work or supplies. In a contract for work or supplies there may be inserted, in the discretion of the officer making it, a provision that additional work may be performed or supplies furnished for the purpose of completing such contract, at an expense not exceeding five per centum of the estimated cost of the contract, if such additional work or supplies be ordered by such officer; provided, however, that the prices agreed to be paid for such additional work be not greater than the unit prices, if any, specified in the contract, or otherwise the fair and reasonable value thereof.

§ 1234. Security; opening of bids. The bidder whose bid is accepted, in the manner prescribed and required by ordinance, shall give security for the faithful performance of the contract. The adequacy and sufficiency of the security shall, in addition to the justification and acknowledgment, be approved by the comptroller. All bids shall be publicly opened by the officer advertising for the same and in the presence of the comptroller or his representative; but the opening of bids shall not be postponed if the comptroller, after notice, fail to attend or to be represented.

§ 1235. Defaults; reletting; modification of contracts. If the bidder, whose bid has been accepted, neglect or refuse to sign the contract or to give security within five days after written notice that the contract has been awarded to him, the proposed contract shall be readvertised and relet. If the work be abandoned by a contractor, it shall be readvertised and relet, unless the board of estimate, by the votes of members entitled to cast at least twelve votes, direct that the work be performed otherwise than by contract let after advertisement and public bidding. No bid shall be accepted from or contract awarded to a person who is in arrears to the city upon debt or contract, or who is a defaulter as surety or otherwise upon an obligation to the city. The board of estimate by the vote of members entitled to at least fourteen votes may upon the recommendation of the head of the depart-

ment, board, body or office making the contract, abrogate, change, alter or modify, with the consent of the contractor any contract when in its judgment public interests so require, and may, upon like recommendation, when in its judgment it will be for the best interests of the city, or circumstances warrant such action, extend the time for performance of a contract or remit or release any penalty imposed under its provisions.

§ 1236. Comptroller's endorsement as to funds available. A contract hereafter made, the expense of the execution of which is not in whole or in part to be assessed upon property deemed benefited, shall not be awarded or entered into unless the comptroller endorse thereon his certificate that there remain unexpended and unapplied a balance of the appropriation or fund applicable thereto sufficient to pay the estimated expense of executing such contract, as certified by the officer making the same. The comptroller shall make such endorsement upon each such contract so presented to him, and if there remain unapplied and unexpended the amount certified by the officer making the contract, the comptroller shall hold and retain such sum to pay the expense incurred until such contract shall have been fully performed. Such endorsement shall be, in any action, sufficient evidence of such appropriation or fund. This section shall not apply to open market orders. The endorsement of the comptroller on a contract for the purchase of coal for a period of not more than one year shall be of the estimated expense of the coal to be furnished under such contract during the balance of the calendar year, as certified by the officer making the contract. On the first of January of the succeeding calendar year the comptroller shall make such endorsement as to the balance of coal to be delivered under the contract.

§ 1237. Deposit of bids. The officer advertising for bids for work or supplies shall require as a condition precedent to the reception of a certified check upon a state or national bank or a trust company in the city, drawn to the order of the comptroller enclosed in the envelope containing the bid. Such deposit shall be five per centum of the amount of the bond required to be given for the faithful performance of the proposed contract and shall be immediately transmitted to the comptroller for safe keeping. The security deposits of all bidders shall be returned to them by the comptroller within five days after the award of the contract, except the deposits of the bidder to whom the contract shall have

been awarded. His security deposit shall be returned when he shall have executed the contract and furnished the required bond. If an award be postponed for more than thirty days after bids shall have been received, interest on the amount of such deposit, from the expiration of said period, at the rate of two per centum per annum shall be paid by the city. If the bidder whose bid has been accepted refuse or neglect, within five days after written notice that the contract has been awarded, to execute the same or to furnish the required bond, his deposit shall be forfeited to and retained by the city as liquidated damages, and shall be paid into the sinking fund of the city of New York.

§ 1238. Payments to contractors. All warrants upon vouchers duly audited and approved, for payment of amounts due under contracts, shall, by number or other description, refer to the voucher, the fund and the contract upon which the payment is to be made; and all checks drawn by the chamberlain on warrants duly approved and executed as payments on contracts may be mailed to the contractor at the address furnished by him, or may be delivered to him or to his authorized representative, and when so mailed or delivered the endorsement by the contractor upon the check attached to such warrant which has been paid shall be considered a receipt from the contractor of the amount of such check on account of the contract.

The head of a department, board, body or office having in charge any work, or the furnishing of supplies, within five days after the acceptance of such work or such supplies, shall file with the comptroller a final certificate of the completion and acceptance thereof, signed by the head of the department, board, body or office. The filing of such certificate shall be presumptive evidence that such work has been completed or supplies have been furnished according to contract.

§ 1239. Payments on contracts, not chargeable to street improvement fund. Every contract for supplies or work except contracts for public improvements chargeable against the street improvement fund, unless otherwise provided by ordinance, shall provide that the city pay to the contractor, from time to time as the supplies are furnished or as the work progresses, upon the certificate of the head of the department, board, body or office having charge thereof, ninety per centum of the estimated value of the supplies furnished or work performed under the contract, the balance to be retained by the city until all the supplies shall

have been furnished or all of the work shall have been performed under the contract, and be included in the final payment to the contractor.

§ 1240. Payments on contracts payable from street improvement fund. When a contract for a public improvement, the cost of which shall be payable out of the street improvement fund, shall have been made and filed with the comptroller and work thereunder shall have been actually begun, there shall be paid to the contractor or his assignee, from time to time as the work progresses, eighty-five per centum of the estimated value of the work performed under the contract until the same shall have been completed. The estimate of the value of any such work shall be signed by the borough president having charge thereof; and, within thirty days after the final completion and the filing of the final certificate with the comptroller or within sixty days after the expiration of the time within which, according to the terms of the contract, the city is required to accept such work, the comptroller shall pay to the contractor or his assignee the balance due thereunder.

§ 1241. Contracts for pavements; conditions. The board of estimate may authorize contracts for asphalt or other pavements to be made, with a guaranty of maintenance upon the part of the contractor for one or more years, with a provision for the retention of a percentage of the amount to be paid until the expiration of such guaranty. The amount retained shall be paid within thirty days after the expiration of the guaranty, upon the filing of a certificate signed by the head of the department having the matter in charge that the terms of the contract and guaranty have been complied with.

§ 1242. Observance of prison law. The provisions of this act or of any statute requiring advertisements for bids or the awarding of contracts for work supplies for any of the departments, boards, bodies or offices of the city, or a county, shall not be applicable to public work which may be performed or supplies which may be furnished under the provisions of the prison law.

§ 1243. Patented pavements. Patented pavements shall be advertised for, contracted for and purchased only in circumstances ensuring fair and reasonable opportunity for competition and in accordance with rules and regulations prescribed by the board of estimate.

## CHAPTER XXXVIII.

## REAL PROPERTY.

- Article 1. Administration of real property. (§§ 1250-1262.)  
2. Acquisition of real property. (§§ 1270-1276.)

## ARTICLE 1.

## ADMINISTRATION OF REAL PROPERTY.

Section 1250. Property continued in the city and declared inalienable.

1251. Water front grants confirmed; rights of private owners saved.  
1252. Designation of real property.  
1253. Boundary disputes; settlement of.  
1254. Sale or lease of real property.  
1255. Discontinued streets, sale of real property in.  
1256. Lands under water; power to convey to owners of upland.  
1257. Exchange of real property.  
1258. Water supply; lease of real property acquired for.  
1259. Street openings, demolition of buildings along course of.  
1260. Damages to buildings; owner may accept cost of removal.  
1261. Rental of real property.  
1262. Canal terminals.

Section 1250. Property continued in city and declared inalienable. The rights and title of the city in and to its real property, water front property, ferries, public landings, parks, streets and the land thereunder, and all other public places are hereby continued in the city, and are declared to be inalienable, except as in this act otherwise provided.

§ 1251. Water front grants confirmed; rights of private owners saved. To enable the city to make needful provision for navigation and commerce, it shall have the control of the water front of the entire city, subject, however, to the rights of private owners, and shall have power to acquire, establish and maintain ferries and water front property; and in addition to all grants heretofore made, there is hereby granted in fee and confirmed to the city in all the public streams, rivers, sounds, bays and

waters within or adjoining the limits of the city, all the estate right, title and interest of the people of the state in and to the lands covered by water, embraced within the projected lines of any street intersecting the shore line, now in public use or hereafter opened for public use. The commissioners of the land office shall, from time to time, convey by patent the lands herein granted to the city whenever required by the board of estimate. This grant shall not impair or affect any existing valid private rights, or the existing riparian rights of owners of private property, or the lawful rights of private owners of docks, piers and other structures.

§ 1252. Designation of real property. The sinking fund commission may:

1. Designate for any public purpose any city property, for whatsoever purpose originally acquired, which may be found by the head of the department, board, body or office having control thereof to be no longer required for the purposes of such department, board, body or office.

2. Assign and reassign to the several departments, boards, bodies and offices for use in the discharge of their administrative duties real property owned or leased by the city.

3. Designate as playgrounds for children any unimproved or unused lots or other real property of the city, subject to its regulations, and may require the police department to supply protection for such playgrounds.

4. Designate the places where the several municipal courts shall be held within their respective districts, and places for the holding of the courts of general and special sessions, and, upon the application of the board of city magistrates, additional places for the holding of magistrates' courts; notice of any change of the places of holding such courts shall, before the same take effect, be published in the City Record daily for six days;

5. Designate from time to time any building or part thereof within the city as a common jail for all the purposes for which common jails may by law be used, and such building or part thereof so designated shall be a common jail.

§ 1253. Boundary disputes; settlement of. The sinking fund commission may, by unanimous vote, settle and adjust by mutual conveyances, or otherwise, and upon such terms and conditions as it may determine, disputes existing between the city and private owners of real property in respect to boundary lines, and release

such interest of the city in real property as the corporation counsel certify in writing to be a mere cloud or an invalid lien upon the title of private owners.

§ 1254. Sale or lease of real property. The sinking fund commission, except as otherwise provided in this act, may sell or lease to the highest bidder at public auction or by sealed bids, after advertisement for a period of at least six days in the City Record, and after appraisal under the direction of the commission, made within three months of the date of sale or lease, any city or county property no longer required for a public purpose but no lease or renewal shall be for a term longer than ten years. If such property be market property it shall be sold only pursuant to a resolution adopted by unanimous vote of the commission, concurred in by the board of aldermen. The proceeds of sale or lease shall, on receipt thereof, after paying necessary charges, be paid to the credit of the "sinking fund of The City of New York," except proceeds of sale of land or buildings in the county of New York owned for school purposes acquired prior to January first, eighteen hundred and ninety-eight, which shall be paid into the "sinking fund of The City of New York for the redemption of the city debt." The board shall provide as a condition of any such sale that no part of the buildings or fixtures on any such real property be relocated or re-erected within the lines of any street or public improvement, and if such condition be violated that the owner be divested of the title to such buildings or fixtures and the same shall thereupon vest in the city.

§ 1255. Discontinued streets; sale of real property in. The sinking fund commission shall also have power to sell and convey the right, title and interest of the city in and to real property lying within any street that has been discontinued and closed in whole or part, by lawful authority, to the owners of real property fronting on such street so discontinued and closed, on such terms and conditions as it may determine, provided the commission determine that such real property so sold is not needed for public use.

§ 1256. Lands under water; power to convey to owners of upland. The sinking fund commission may sell and convey the right, title and interest of the city in and to real property within the limits of a river, stream, pond or water, closed or proposed to be closed, pursuant to change in the city map, to the abutting owners upon such terms as the commission determine, provided it determine that such real property is not needed for a public use.

§ 1257. Exchange of real property. The sinking fund commission may by unanimous vote, upon determining that real property, is no longer needed for public use, exchange such real property, with or without the improvements thereon, for other real property of equal or greater value, provided the commission determine that such other real property is needed for a public use. To determine the value of the real property affected, such property shall be appraised within three months prior to the exchange by three disinterested appraisers appointed by the commission. The report of the appraisers shall be presented to the commission at its first meeting after the completion of the appraisal. The approval of the corporation counsel shall be necessary as to the form of all instruments of conveyance required to effect such exchange.

§ 1258. Water supply; lease of real property acquired for. The sinking fund commission may, upon petition, after public hearing, lease an easement for purposes of highways or public service utilities in, on, or over or under real property of the city outside the limits of the city acquired for the sanitary protection or other purpose of its water supply, for a term not exceeding twenty-five years, with privilege of renewals upon fair revaluations for additional periods not exceeding in the aggregate twenty-five years, upon such conditions, for such consideration, and subject to such restrictions as the commission determine. Notice of such hearing and petition shall be published at least twice in the City Record, and in two newspapers designated by the commission at the expense of the petitioners. No such lease shall be made unless the commission determine that the easement so leased be used for a purpose consistent with the sanitary protection or other purpose of the water supply of the city, and provided that every such lease contain covenants restricting the use of such real property in accordance with the determination of the commission, and providing for the forfeiture to the city of the term upon breach of any of said covenants.

§ 1259. Street openings, demolition of buildings along course of. The sinking fund commission shall cause to be demolished or removed all buildings or other structures acquired by the city in proceedings to open a street and not needed for a public purpose. The expense of such demolition and removal shall be paid from the proceeds of the sale of corporate stock.

§ 1260. Damages to buildings; owner may accept cost of removal. In the case of real property required for public use upon



which there is a building or structure, the sinking fund commission may, prior to confirmation of the report of the commissioners of appraisal, if title thereto has not vested in the city, agree with the owner that he remove the building or structure and that the damage to the building or structure be the cost of removal as determined by the commissioners of appraisal; if title thereto has vested that his compensation for damage to the building or structure shall be such cost of removal, and the commissioners of appraisal shall accept such amount as the amount of the award to the owner for damage to the building or structure. The commissioners of appraisal shall determine the cost of removal and include the same in their report. The agreement shall provide that any such building or structure shall not be located or re-erected within the lines of any proposed street or public improvement and in case of breach of such condition the title of the owner to the building or structure shall be divested and vest in the city.

§ 1261. Rental of property. The sinking fund commission may contract and collect rental for:

1. The temporary occupation and use of real property acquired for public purposes for the period between the acquisition of such property and the time when the same shall be actually utilized for the purposes for which it was acquired.

2. The occupation and use of real property which, having been originally acquired for public use, is no longer required therefor.

3. The use of real property belonging to or managed by the city, except as herein otherwise provided.

§ 1262. Canal terminals. The sinking fund commission may grant and convey to the state water front property for canal terminals.

## ARTICLE 2.

### ACQUISITION OF REAL PROPERTY.

Section 1270. Acquisition.

1271. Power vested in board of estimate.

1272. Title which may be acquired.

1273. Playgrounds.

1274. Condemnation.

1275. Property exempt from acquisition for street purposes.

1276. Property for water supply purposes.

Section 1270. Acquisition. The city may acquire real property for the city or a county by:

1. Purchase;
2. Devise or gift;
3. Dedication;
4. Grant or cession;
5. Exchange;
6. Eminent domain;
7. Lease.

§ 1271. Power vested in board of estimate. The board of estimate may select real property for any purpose of the city or a county, and cause title thereto to be acquired either by purchase or by the exercise of the right of eminent domain. It may acquire or lease real property for public purpose on its own motion or on the application of the head of a department, board, body or office of the city or a county. It may prescribe the manner in which application for the acquisition or lease of real property shall be made, and upon what maps, estimates of value, certificates of necessity, reports and other documents. The board may agree with the owner or person having an estate or interest in real property for its purchase or lease. If the real property be owned or occupied by the state, a municipal corporation, or a school district, the agreement with the city shall be made, respectively, by the commissioners of the land office, the mayor and common council of a city, the board of supervisors of a county, the president and board of trustees of a village, the supervisor and superintendent of highways of a town and the trustees of a school district.

§ 1272. Title which may be acquired. When the city be authorized to acquire real property, it may acquire the fee simple, the fee subject to an easement, an easement or other estate, interest or right therein, or, in case the real property be required for a street, the fee may be acquired in trust that the street be kept open for, or as a part of, a public street forever, as the board of estimate may determine.

§ 1273. Playgrounds. The board may select, locate, lay out and acquire property for sites for playgrounds and school farms.

§ 1274. Condemnation. The board of estimate shall have power to acquire real property either within or without the city for any public purpose by purchase or condemnation. It may authorize and direct that proceedings be instituted for the acquisition of real property by condemnation; that application be made for the appointment of commissioners of appraisal and assessment to appraise the compensation for damage and assess

the benefit; authorize different proceedings to be joined in one application, whether the property to be acquired be situated in one or more boroughs; fix and determine the area or areas of benefit to be assessed; exercise general control and direction of such proceedings; and have such other powers in relation thereto as are provided in this act.

§ 1275. Property exempt from acquisition for street purposes. Authority conferred by this act to acquire real property does not extend to condemnation for street purposes of the real property of Saint John's College or Fordham University, the University of The City of New York, or Columbia College, used and occupied for educational purposes.

§ 1276. Property for water supply purposes. The board of estimate may select all sources of water supply needed for the supply and distribution of pure and wholesome water, and acquire or lease real property necessary to secure the sole and exclusive property in or use of any source of water supply determined upon, and extinguish the rights of any person therein, and lay, relay, repair and maintain aqueducts, conduits and water pipes with the connections and fixtures on the lands of others for the purpose of conducting water to the city, to intercept and direct the flow of water from the lands of any persons owning or interested in any water, and to prevent the contamination of the water supply.

## CHAPTER XXXIX.

### PROCEDURE FOR ACQUIRING REAL PROPERTY.

- Article 1. General provisions applicable to two or more classes of proceedings. (§§ 1280-1291.)
2. Proceedings to acquire real property for street purposes. (§§ 1300-1332.)
  3. Proceedings to acquire real property for water supply purposes. (§§ 1340-1363.)
  4. Proceedings to acquire real property for general purposes. (§§ 1370-1384.)

## ARTICLE I.

### GENERAL PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF PROCEEDINGS.

#### Section 1280. Definitions.

1281. Majority of commissioners may act.

1282. Oath of commissioners.

Section 1283. Amendments of defect of informality in proceedings.

1284. Purchase by city of awards.

1285. Corporation counsel to appear and protect interests of the city and to furnish clerks and offices.

1286. Fees of commissioners; when to be taxed.

1287. Appeal to appellate division.

1288. Appeal to court of appeals.

1289. Notice of confirmation of awards to be given the comptroller.

1290. Effect of vesting title on leases and contracts.

1291. Effect of this act on pending proceedings.

Section 1280. Definitions. In this chapter, the term

a. "Acquire," "acquisition," mean acquire or acquisition by condemnation;

b. "Owner" means a person having an estate, interest or easement in the property to be acquired, or a lien, charge or incumbrance thereon;

c. "Map" includes map, survey and plan; and wherever in this chapter a map, survey or plan is required to be made or filed, such map, survey or plan may be made or filed in sections;

d. "The appellate division" means the appellate division of the judicial department in which the real property, or some part thereof, is situated;

e. "The Court," "The supreme court," except where the context otherwise requires, means a special term of the supreme court held in a county within the judicial department in which the real property, or some part thereof, is situated;

f. "Commissioners of appraisal" means the commissioners appointed to appraise the compensation for damages to be made to the owners of the real property proposed to be acquired;

g. "Commissioner of assessment" means the commissioner of appraisal appointed to assess the cost of an improvement or such portion thereof as the board of estimate directs, upon the lands within the area of assessment as determined by the board of estimate;

h. "Recorded" when referring to an instrument affecting real property means recorded in the office in which conveyances of real property are recorded in the county in which the real property is situated;

i. "Recording officer" means recording officer of the county in which the real property is situated, as defined by the real property law;

j. "Published," "publication" means, unless otherwise specified, published or publication in the City Record;

k. "Expense of the improvement," or its equivalent, includes the amount awarded for compensation of damages and the cost and expense of the proceeding for acquiring the real property required for the improvement, as provided in this chapter.

l. "Abstract" means the preliminary report of the commissioners of appraisal or of the commissioner of assessment as the case may be.

m. "Report" means the final report of the commissioners of appraisal or of the commissioner of assessment as the case may be.

§ 1281. Majority of commissioners may act. The acts, decisions and proceedings of the majority of the commissioners of appraisal shall be as valid and effectual as if the commissioners had all concurred and joined therein.

§ 1282. Oath of commissioners. Each commissioner before entering upon the performance of his duties shall take and subscribe before some person authorized to administer oaths the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of commissioner according to the best of my ability; and that I have no interest in any real property affected by this proceeding, and that I am disinterested in respect thereto." Such oath or affirmation shall be forthwith filed in the office of the clerk of the county in which the order appointing the commissioners shall have been entered. If the real property be located in two or more counties, duplicate oaths shall be filed with the clerk of each county.

§ 1283. Amendments of defect or informality in proceeding. The court shall have power at any time upon the application of the city to amend any defect or informality in a proceeding authorized by this act, or to alter, revoke or amend the taking of any interest or fee or to cause other property affected by said defect, informality or lack of jurisdiction to be included therein by amendment, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die, or resign, or refuse, or neglect to serve,

or fail to qualify, or be incapable of serving, or be removed, or be rejected for cause. If at any time it be found necessary to amend any petition, pleading, proceeding or order, or to supply any defect therein, arising in the course of any proceeding authorized by this act, the same may be amended or supplied in such manner as shall be directed by the court, which is hereby authorized to make such amendment or correction.

§ 1284. Purchase by city of awards. In a proceeding instituted pursuant to any of the provisions of this act, or pursuant to the provisions of any other statute providing for the acquisition of title to real property by the city, in which title thereto shall have become vested in the city prior to the confirmation of the report of the commissioners, the board of estimate may purchase or approve the purchase on behalf of the city, from a person who was the owner of said property at the date of the vesting of title in the city, or from his successor in interest or legal representatives, his right and title to the award or any part thereof to be made in such proceeding and to take an assignment thereof to the city. If such owner or his successors in interest or legal representatives shall have transferred or assigned such claim, such transfer or assignment shall not become binding upon the city unless the instrument evidencing such transfer or assignment shall have been filed in the finance department of the city prior to the completion of such purchase. Upon the completion of such purchase, the corporation counsel shall give notice thereof to the commissioners appointed in the proceeding, and upon the service of such notice all the jurisdiction of the commissioners over the parcel or parcels to which the purchase relates shall forthwith cease.

§ 1285. Corporation counsel to appear and protect interests of city and provide clerks, stenographers and offices. The corporation counsel shall, either in person, or by such assistant or counsel as he shall designate, appear for and protect the interests of the city in all proceedings in court and before the commissioners. He shall provide the commissioners with such clerks, stenographers and other employees and such offices as they may require in the discharge of their duties.

§ 1286. Fees of commissioners; when to be taxed. Fees of commissioners in proceedings, instituted under this act or under chapter four of the laws of eighteen hundred and ninety-one as amended and supplemental for the acquisition of title, by the city,

to real property required for public use, shall not be taxed by the court prior to the confirmation of the report of the commissioners unless the same are to be included in an assessment for benefit. If the fees of the commissioners are to be included in an assessment for benefit, such fees shall not be taxed by the court until the commissioners shall have determined their final awards and given instructions to their clerk to prepare the report.

§ 1287. Appeals to the appellate division. The city or a party aggrieved by the order of the special term entered on the motion to confirm the report of the commissioners of appraisal or of the commissioner of assessment, or both, may appeal to the appellate division. Such appeal shall be taken and heard in the manner provided for appeals in special proceedings, and shall be heard and determined upon the merits both as to law and fact. The taking of an appeal shall not operate to stay the proceedings except as to the particular parcel to which the appeal relates. The order confirming the report or reports shall be final and conclusive upon all parties who shall not have appealed. Such appeals shall be heard upon the evidence taken before the commissioners, or such part thereof as the court at special term may certify, or as the parties to the appeal may agree upon as sufficient to present the merits of the questions in controversy, and on affidavits as to irregularities presented to the court at special term. An appeal taken but not prosecuted within six months after the filing of the notice of the appeal, unless the time for such prosecution be extended by the court, shall be deemed to have been abandoned, and such time shall not be extended by agreement between the parties. When an order confirming a report shall be reversed upon appeal, the commissioner of assessment to whom such report shall be referred for amendment, correction or revision shall have power to make such additional assessment as may be necessary, and the court may direct a new appraisal or determination of any question by the same or new commissioners.

§ 1288. Appeal to court of appeals authorized. An appeal to the court of appeals may be taken by the city or any person aggrieved by the order of the appellate division. Such appeal shall be taken and heard in the manner provided for appeals in special proceedings; but an appeal taken but not prosecuted within six months after the filing of the notice of the appeal, unless the time for prosecution thereof be extended by the court, shall be deemed to have been abandoned, and such time shall not be extended by

agreement between the parties. The court of appeals may affirm or reverse the order appealed from, and may make such order or direction as may be appropriate, whether for a rehearing before the same or new commissioners to be appointed by the supreme court or for final confirmation of the reports or otherwise. If the report or reports be confirmed, the court of appeals shall enter a final order in the proceeding which shall be binding upon all persons having any interest in the real property affected, and the city shall thereupon be entitled to take and hold such real property for the public use in those cases where title to the same has not already vested in the city, pursuant to other provisions of this act.

§ 1289. Notice of awards to be given the comptroller. In any proceeding hereafter had to acquire real property for or on behalf of the city, before an award shall be confirmed, imposing an obligation upon the city to pay any moneys out of the proceeds of the sale of corporate stock, the comptroller shall have thirty days' notice in writing, stating before whom and at what time application for confirmation will be made.

§ 1290. Effect of vesting title upon leases and contracts. Where the whole or any part of premises under lease or other contract be acquired, all the covenants, contracts and engagements between landlord and tenant, or other contracting parties, concerning the same, or any part thereof, shall, upon the vesting of the title in the city, cease and determine; and where part of such premises be acquired, all contracts and engagements respecting the same shall, upon such vesting, cease and determine and be absolutely discharged as to the part thereof acquired, but shall remain valid and obligatory as to the residue; and the rents, considerations and payments reserved or payable shall be apportioned by the commissioners, and the part thereof justly and equitably payable for the residue may be recovered. All tenants in possession of said premises at the time of vesting title shall be and become tenants at will of the city, unless within ten days after the vesting of title they shall elect to vacate and give up their respective holdings.

§ 1291. Effect of this act on pending proceedings. Proceedings of any nature heretofore instituted shall be conducted in all respects as if this act had not been passed. A proceeding shall be deemed to be instituted within the meaning of this section where a publication of the notice of application for the appointment of commissioners shall have heretofore been made.



## ARTICLE 2.

## STREET-OPENING PROCEEDINGS, INCLUDING PROCEEDINGS FOR THE ACQUISITION OF REAL PROPERTY FOR PARKS, DOCKS AND SEWERS.

## Section 1300. Authorization of proceedings; determination of awards.

1301. Board of estimate to fix area of assessment and portion of expense.
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- Section 1325. Sums to be proportionately assessed.
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1327. Disposition of buildings acquired for opening streets.
1328. Notice of application for appointment of commissioners.
1329. Interest on assessments to be charged if not paid in sixty days.
1330. Chamberlain to publish notice of confirmation of assessment.
1331. Assessments may be set off against awards.
1332. Assessments confirmed by a court of record not to be vacated or reduced.
1333. Drains; acquisition of real property for.

Section 1300. Authorization of proceedings; determination of awards. When the board of estimate shall have authorized the taking of real property for street purposes or for the improvement of water front property of the city or for ferry purposes or for sewers the city may apply to the supreme court for the appointment of commissioners of appraisal to determine the awards which should justly be made to the owners of the real property proposed to be taken, and, in a proper case, for the appointment of one of such commissioners as a commissioner of assessment to assess the cost of such improvement, or such portion thereof as the board of estimate directs, upon the real property within the area of assessment as determined by the board. As many proceedings may be joined in one application for the appointment of commissioners of appraisal or commissioners of assessment as the board of estimate determine.

§ 1301. Board of estimate to fix area of assessment and portion of expense. In proceedings involving an assessment for benefit, whether now pending or hereafter authorized, the board may determine upon a partial or separate area or areas of benefit for the opening of a street or streets joined in one application or for as many streets as it may decide, and authorize the making of a partial or separate report or reports containing both awards for damage and assessments for benefit and their presentation together for confirmation. Notice of a hearing upon such partial or separate area or areas of assessment may be given as herein provided, either before the application for the appointment of commissioners or during the pendency of the proceeding. It may also include

in a single proceeding contiguous premises to be acquired in more than one borough, and authorize the appointment of commissioners of appraisal and a commissioner of assessment therefor, and it may determine upon an area of assessment covering more than one borough, and all the provisions of this title shall be applicable thereto. The moneys collected upon the assessment shall be paid into the city treasury. The awards shall become due and payable immediately upon the confirmation of the report of commissioners of appraisal.

The board of estimate is hereby authorized and required at the time of the adoption of the resolution directing the institution of the proceedings, or thereafter in the case of pending proceedings, to fix and determine upon an area or areas of assessments for benefit, and it shall have power to review and alter any such area of assessment at any time before the assessment for benefit shall have been completed and confirmed by the supreme court, if it deem such action advisable. It shall also have power to divide the area or areas of assessment, or partial or separate areas of assessment determined upon by it, into zones or subareas, and direct what portion in percentages of the cost and expense of the proceedings shall be made a charge upon such zones or subareas. The board shall give notice in the City Record of each proposed area and subarea of assessment for each improvement, and of the proposed percentage of the cost and expense of the proceeding to be charged upon each zone or subarea and of a hearing thereon. Similar notice shall be given of a proposed revision or alteration of an area or subarea of assessment, of the percentages to be charged thereon. It may determine whether any, if any, what portion of the cost and expense of the proceedings authorized by this title shall be borne by the city, or by any entire borough or boroughs; and may also determine in any proceeding or class of proceedings or generally what portion of the expenses of the law department of the city, and of the cost and expense incurred by the borough president, in the preparation of maps, shall be borne by the city, and the whole or remainder of such cost and expense shall be assessed upon the property deemed to be benefited.

§ 1302. Commissioners; appointment and qualification of. Whenever the acquisition of real property for street purposes or for the improvement of the water front of the city or for ferry purposes or for sewers or drains shall have been authorized, it shall be the duty of the corporation counsel immediately to institute a proceeding to acquire title for the use of the

public to the real property required therefor, and upon due notice by advertisement duly published for six successive issues of the City Record, and by causing copies of the same in handbills to be posted for the same space of time in three conspicuous places upon or adjacent to the real property to be affected by the intended improvement, to make application to the supreme court for the appointment of commissioners of appraisal and in a proper case a commissioner of assessment, indicating in such application the real property required, by a general description, and in case the real property be required for street purposes by reference to the maps on file in his office and referring to the area of assessment fixed by the board of estimate. Upon such application the court shall appoint three discreet and disinterested persons, citizens of the United States, and residents of the city, commissioners of appraisal and in a proper case one of such commissioners of appraisal commissioner of assessment. The person appointed commissioner of assessment shall be so designated in the order of appointment. The persons appointed commissioners shall be subject to challenge by any person having an interest in the proceeding upon any ground which would disqualify a judge or juror. Ten days' notice of the appointment of the commissioners, Sundays and holidays excluded, shall be published in the City Record, and the corporation counsel shall cause a copy of such notice to be served by mail or otherwise any time before the return day specified therein upon such parties or their attorneys as have filed a notice of claim or of appearance in the proceeding. Such notice shall specify the names of the persons appointed as commissioners and fix a day when the parties may be heard by the supreme court as to the qualification of such commissioners. The persons appointed commissioners of appraisal and the person appointed commissioner of assessment shall attend at the time and place fixed in the notice and be examined under oath as to their qualifications. Any challenge must be tried and determined by the court in the mode prescribed by law in respect to the challenge of jurors, and such determination may be excepted to and reviewed as in the case of jurors. Where a challenge is sustained and a new commissioner is appointed, such new commissioner shall be subject to challenge in the same way, to be heard and determined by the court at such time as it may direct.

§ 1303. Vacancies; how filled. In case a commissioner die, resign, refuse to serve, be rejected for cause or fail to qualify

the court may, on application of the city, on notice to any person interested who may have appeared on the prior application, as often as necessary, appoint a new commissioner in the same manner as commissioners were originally appointed, in the place of such commissioner, and the surviving or acting commissioners may proceed in the execution of their duties, until such new commissioners qualify. Such new commissioner shall possess the same qualifications and be subject to challenge upon the same grounds and in the same manner as hereinbefore provided, and the time and place for such challenge shall be specified in the order appointing such successor.

§ 1304. Commissioners to view and give notice of their appointment. The commissioners of appraisal shall view the real property to be acquired. The commissioner of assessment shall view so far as he shall deem it necessary the real property in the area of assessment as determined by the board of estimate. The commissioners shall cause to be published a notice of their appointment, containing a brief statement of the purposes for which they have been appointed, and requiring all owners of the real property affected by the proceeding to present their claims duly verified, within ten days after the date of such notice, and stating a time and place after the expiration of said ten days when the said owners will be heard in relation thereto. At the time and place fixed by said notice, or at any such further or other times and places as the commissioners may appoint, they shall hear such owners and receive such proofs and allegations as may then be offered by such owners, or the city. The commissioners of appraisal shall refer the taking of proof of title to property taken where the same is undisputed and likewise proof as to any lien or incumbrance thereon or any demands against the same, to the clerk of said commissioners or to the assistant corporation counsel in charge of the proceeding. The corporation counsel may obtain from any title insurance company certificates of title to the real property affected and of the liens and incumbrances thereon, in any case which in his judgment warrants such action.

§ 1305. Commissioners to condemn real property; powers of. The commissioners of appraisal and the commissioner of assessment may issue subpoenas and administer oaths. The commissioners may, as a condition for the opening of a default, require the party applying therefor to pay the fees of the commissioners,

and their clerical expenses for the additional meeting or meetings made necessary by his fault. They shall cause to be reduced to writing the testimony, if any, taken before them. They may cause such maps or diagrams to be prepared as will enable or assist them to hear and determine the claims or interest of the owners. From the maps furnished to or prepared by them and such other information as they shall possess or obtain, they shall cause diagrams to be prepared which shall distinctly indicate by separate numbers the respective parcels of real property to be acquired or assessed and the respective owners of such parcels where known and shall specify in figures with sufficient accuracy the dimensions and bounds of each parcel. The lots assessed shall be designated on such maps by the same ward or block and lot numbers or other designations as shall be used to designate the property on the tax-books of the city. If any lot designated on such tax-books be not assessed as a whole but as to a part or in separate parts there shall be added to the designation such letters, numbers or figures or other description as may be necessary in order to indicate the exact parcel comprised in such tax lot which is assessed. If an assessment for benefit be levied by a commissioner of assessment upon an entire borough or two or more entire boroughs, it shall not be necessary to prepare benefit maps, but only to refer to the parcels assessed by the block, lot and ward numbers shown on the tax maps of the borough; but all subdivisions of any such lot or parcel shall be described as aforesaid. The commissioners may require any board, department or officer of the city to furnish such maps or plans and profiles as may be required. The corporation counsel is hereby authorized and required, in case any board, department or officer of the city fail within three months after due request in writing to furnish the maps or plans and profiles required, to procure such maps or plans and profiles from the lowest bidder without advertisement, and he may reject all bids. The expense thereof shall be chargeable against the fund out of which the expense of the improvement is to be paid and included in the assessment for benefit, if any.

§ 1306. Commissioners to ascertain damages and benefit. After hearing the testimony and considering such proofs as may be offered, the commissioners of appraisal shall, without unnecessary delay, ascertain and appraise the compensation which ought justly to be made by the city to the respective owners of the real property required for the improvement; and the commissioner of

assessment shall make a just and equitable assessment of the value of the benefit of such improvement to the respective owners of the real property benefited by the improvement, and the commissioners of appraisal and the commissioner of assessment shall prepare separate abstracts of their appraisal and assessment. The commissioner of assessment shall, in making his assessment of the value of the benefit, assess any and all such real property within the area or areas of assessment fixed and prescribed by the board of estimate in proportion to the amount of benefit received. The borough president shall, in the preparation of maps requested by the commissioners, make a monthly return to the corporation counsel, verified by him, showing the names of persons employed, and the number of hours occupied by them in the preparation of such maps, and the days of the month so occupied, their respective salaries and the amount of such salary apportioned to the expense thereof in each proceeding. Such returns shall be considered presumptive evidence of the correctness of such expense, which, if the board of estimate so determine, shall be included in whole or in part in the assessment for benefit after the same shall have been taxed by the supreme court in the manner provided for the taxation of the bills of costs of commissioners of appraisal and of the commissioner of assessment. The salaries of the persons employed by the borough president or the proportionate share thereof chargeable to the preparation of maps shall be paid monthly in the first instance out of the fund for street and park openings upon pay-rolls and vouchers, duly certified by the borough president, in the same manner as the employees of the law department are paid. When the board direct that any part of the entire cost and expense of a proceeding shall be borne by an entire borough or two or more entire boroughs it shall fix the compensation to be paid to the commissioner of assessment for making such distribution. The determination of the board of the proportions to be borne by the city, a borough or boroughs, and by the property benefited, after it shall have been made and announced, shall be final, except that the board may, at any time by unanimous vote, reconsider and redetermine the proportion to be borne by the city or borough or boroughs and the property benefited. The commissioner of assessment shall in no case assess any house, lot, improved or unimproved lands more than one-half the fair value thereof before the improvement as determined by him. The commissioner may, if he deem it just and equitable.

assess any part, not exceeding one-third of the estimated value of any building or buildings taken in the proceeding, but not of any other improvement, upon the city.

§ 1307. Abstract of awards and of assessments to be deposited. The commissioners of appraisal and the commissioner of assessment shall deposit at the same time in the law department the respective abstracts of their appraisal of damages and of assessment for benefit at least twenty days before their respective reports shall be presented to the court for confirmation, which abstracts shall be accompanied by copies of the diagrams used by them and shall refer to the numbers indicated on such diagrams and state the several sums awarded for or assessed upon each parcel, with the name or names of the owners, so far as ascertained. Whenever the board of estimate direct that a part of the cost and expense of the proceeding shall be assessed on an entire borough or two or more entire boroughs, it shall not be necessary to attach to the abstract of assessment for benefit nor to the report any assessment maps; but reference shall be made in the preliminary abstract and in the tabular abstract attached to the report to the parcels assessed for benefit as shown on the tax maps of the borough for the current year. Should any change be made in the size or area of a parcel proposed to be assessed, by subdivision or otherwise, the commissioner of assessment may make an apportionment of a proposed assessment rendered necessary by such change. The borough president shall furnish to the law department sets of the tax maps of the borough in duplicate for filing and for convenience of reference in the abstract and the report of the commissioner of assessment. The surveyor of the department of taxes shall make and furnish all such surveys and corrections of the tax maps as may be necessary for the purpose of assessment. Such commissioners shall deposit all the affidavits and proofs used by them in making their abstracts. They shall also publish a notice for fifteen days in the City Record, stating their intention to present their final reports for confirmation to the court at a time and place to be specified, provided there be no objection to either abstract, and also that all persons interested in such proceedings, or in any of the real property affected thereby, having any objection thereto, shall file the same, in writing, duly verified, with the commissioners within twenty days after the first publication of the notice, and that the commissioners will hear parties so objecting at a place and at a time after the expiration



of said twenty days, to be specified in said notice. Such objections shall be verified in accordance with the provisions of the civil code relating to the verification of pleadings in courts of record. When necessary the commissioners of appraisal or the commissioner of assessment may prepare a new, supplemental or amended abstract and file the same. Similar notice for at least ten days shall be given of any new, supplemental or amended abstract, but such abstract shall be refiled for objections thereto for ten days only. At the time and place named in the notice the commissioners shall hear those who shall have objected to the abstract, and who may appear, and shall have the power to adjourn from time to time until all shall be fully heard. If objections be filed, the motion to confirm the reports shall stand adjourned until a date to be specified in the notice hereinafter provided for. Except as herein otherwise provided the report as to awards and the report as to assessments must be noticed for and brought on for confirmation at the same time and place.

§ 1308. Amendment of abstract. It shall not be lawful for the commissioners of appraisal nor the commissioner of assessment to alter or amend an abstract, or new, supplemental or amended abstract, after the same shall have been deposited for inspection, by increasing the amount of an assessment, or diminishing an award, unless the owner affected by such increase or diminution shall have had notice thereof and an opportunity to be heard before said commissioners.

§ 1309. Witness; how compelled to testify. Upon the application of any person whose rights may be affected by the appraisal or assessment, verified by the oath or affirmation of the applicant or his agent, that any witness, residing or being in the city, whose testimony is material or necessary to such party, refuses voluntarily to appear before any officer authorized to take an affidavit, to testify or affirm to such matter as he may know, concerning an objection, any one of the commissioners may issue a subpoena under his hand, requiring such witness to appear and testify to such matters as he may know concerning the appraisal or assessment, at such time and place as the commissioner may designate. A person, served with such subpoena, who shall, without reasonable cause, refuse or neglect to appear, or appearing shall refuse to answer, under oath or affirmation, concerning the matters aforesaid, shall forfeit to the party injured one hundred dollars; and may also be committed to prison by any justice of the supreme

court upon application duly made on behalf of the commissioner who issued such subpoena, there to remain, without bail and without the liberties of the jail, until he shall submit to answer, under oath or affirmation as aforesaid.

§ 1310. Commissioners to present reports to court. After considering the objections, if any, and making any correction or alteration of the abstract of damage or of assessment, which the commissioners of appraisal or the commissioners of assessment shall deem to be just, the reports shall be filed at the same time in the office of the clerk of the county where the real property is situated at least five days before the time fixed in the preliminary notice for the presentation of said reports to the court for confirmation, if no objection should be filed, or the date to which the same shall have been duly adjourned. If objections have been filed, a new notice of motion to confirm shall, upon the filing of the reports, be given by mail to the persons who have appeared in the proceeding and by publication in the City Record for five days. The commissioners, or any person interested, shall notify the corporation counsel and all persons who have filed objections or who have theretofore appeared, as soon as the reports shall have been filed. The corporation counsel may present the same for confirmation, or in case of his neglect or refusal to do so for ten days after notice of filing any person interested in the real property taken or required may present the same, upon notice to the corporation counsel.

§ 1311. Reports; what to contain. The reports of the commissioners shall consist of the maps hereinbefore referred to, duly corrected, except in the case of an assessment to be levied upon an entire borough or two or more entire boroughs, with a tabular abstract of the appraisal of damages and a tabular abstract of the assessment for benefit, with any corrections or alterations, showing fully and separately the amount of damage, and of benefit to each owner, interested in any real property affected by the improvement. In such reports the commissioners shall set forth the names of the owners of the real property mentioned in the report, so far as the same shall have been ascertained by them, and a designation or description of the parcels acquired and also of the parcels assessed. Such reports shall refer to the number of the parcels indicated on the maps, except in the case of an assessment to be levied on an entire borough or two or more entire boroughs, and state the sums assessed upon each parcel, with the

name of the owner if ascertained by the commissioner. In case the board of estimate direct that a portion of the cost and expense of the proceeding be borne by an entire borough or two or more entire boroughs, it shall be sufficient in the abstract of assessments and in the report as to assessments, to refer to the parcels of real property benefited by the improvement by reference to the block, lot and ward number on the tax maps of the borough in the manner heretofore provided. When the said commissioners shall be unable to ascertain the name of an owner, they shall indicate the parcel upon the map as belonging to unknown owners. It shall not be necessary in the reports to describe any of the parcels by metes and bounds, but only by reference to the maps. The reports shall set forth separately the sums awarded for damages and assessed for benefit. The commissioners of appraisal in a proceeding embracing only one street may, when authorized by a majority vote of all the members of the board of estimate, make and file a partial abstract of damages and make a separate partial report with reference thereto. Such separate or partial report shall be made in the same form and manner, and such proceedings shall be had in respect thereto, as in respect to the report relative to the entire real property as herein provided. The commissioner of assessment, if authorized by the board, may make and file a separate abstract and a separate report as to a single street or two or more streets in cases where more than one street is joined in one proceeding; but he must notice and bring such report on for confirmation at the time that any separate report as to awards for damages is authorized to be brought on. Where partial reports as to awards for damage are authorized to be made in proceedings for the opening of a single street, the last partial abstract and report as to awards, when there is more than one, and the abstract and report as to assessments for benefits, shall be filed and brought on for confirmation at the same time and place.

§ 1312. Proceedings upon presentation of reports for confirmation. The application for the confirmation of the reports of commissioners of appraisal and of the commissioner of assessment shall be made to the supreme court, upon the same day. Upon the coming in of the report of the commissioners of appraisal, and of the report of the commissioner of assessment and upon the hearing of the application for the confirmation thereof, if title to the real property shall not have theretofore vested in

the city, or if the real property be not acquired for a public park, parkway, public square or place, bridge, tunnel or approach to either, improvement of the water front, or for ferry purposes, or for sewers or drains, and if the owners of the fee of the real property to be acquired and assessed to the extent of more than one-half the sum of the awards and one-half the sum of the assessments appear and object to further proceedings upon the reports, the court shall order the proceedings to be discontinued; otherwise the court shall, after hearing any matter which may be alleged against the same, either confirm the said report or reports in whole, or in part, or refer the same, or a part thereof, to the commissioners for revision and correction, or to new commissioners, to be appointed by the court to reconsider the subject-matter thereof, and such new commissioners shall return the same report or reports, or such part thereof, corrected and revised, or a new report to the court without unnecessary delay; and the same on being so returned shall be confirmed or again referred by the court in manner aforesaid, and so from time to time until a report or reports shall be made or returned, which the court shall wholly confirm, and such report or any part thereof, when so confirmed, shall, unless set aside or reversed on appeal, be final and conclusive upon all parties.

§ 1313. Duplicate copies of reports to be filed. Duplicate copies of the report of the commissioners of appraisal signed by them or any two of them shall be filed by the corporation counsel, one copy in the office of the-chamberlain and the other copy in the office of the clerk of the county in which the property is situated.

§ 1314. Vesting of title in the city. Should the board of estimate at any time deem it for the public interest that the title to the real property or any part thereof or any interest therein be acquired by the city at a specified time, it may direct, by a three-fourths vote, that at a date subsequent to the filing of the oaths of the commissioners of appraisal, the title to such real property or part thereof or interest therein required for any purpose authorized in this article shall vest in the city. Upon the date specified by the board of estimate, the city shall become seized in fee of the real property in the resolution mentioned, and interest at the legal rate upon the sums awarded the owners, from such date to the date of the report, shall be allowed by the commissioners as part of the compensation to which such owners are entitled. In other cases, title shall vest in the city upon the confirmation of the report of

the commissioners of appraisal; and the reversal on appeal of the order of confirmation shall not divest the city of title to the real property affected by the appeal. Upon the vesting of title the city, acting by and through the department, board, body or officer, which upon the acquisition of the title to said real property shall have jurisdiction thereof shall immediately take possession of such real property, without suit or proceeding. The title acquired by the city to real property required for a street shall be in trust that the same be appropriated and kept open as a public street forever. If any individual or corporation before the appointment of commissioners of appraisal shall have acquired by private grant, prescription or otherwise, any easement for the purpose of laying or maintaining in real property to be acquired for a street underground pipes or conduits for the distribution of water, gas, steam or electricity, or for pneumatic service, such easement shall not be extinguished, but the title to the real property acquired as herein provided shall be taken subject to such easement; provided, however, that nothing herein contained shall limit the power of the city to acquire by purchase or condemnation the easement, plant or service of such person, individual or corporation.

§ 1315. Within what time proceedings to be completed; removal of commissioners. The commissioners appointed in pursuance of this article shall complete the proceedings on their part within six months from the receipt by the law department of the city of the final damage and assessment maps, under penalty of forfeiting all fees, unless an extension be given by the supreme court, in its discretion, upon a written petition containing a statement by the commissioners, of the reasons for an extension, and upon at least five days' notice to the corporation counsel, and to the parties or their attorneys who have appeared in the proceeding. Upon such application, the court may make such order in respect to the time and manner of completing the report of the commissioners, and the taking and submission of the proofs of the parties, as will enable or require the commissioners to complete the proceedings with reasonable dispatch; and if it appear that the proceeding has been delayed by the inattention or neglect of a commissioner, the court may remove such commissioner and appoint a new commissioner in his place. The court may, at any time, remove a commissioner who shall, in its judgment, be incapable of serving or unfit to serve. The cause of removal shall be specified in the order.

§ 1316. Owners of land required for streets may convey to the city. An owner of real property within the lines of any street shown on the city map, and extending from a side of such street to or beyond its center line, may, without compensation and before the appointment of the commissioners, convey to the city all his right, title and interest therein, provided the same be free from incumbrances inconsistent with the title to be acquired by the city. Upon delivery of such conveyances to the corporation counsel, together with abstracts of title and complete searches if desired by the corporation counsel, and with the affidavit of such owner that the person making it is the owner of the estate in such real property so conveyed by him, and stating his interest, and that such estate is free of all incumbrances, except as aforesaid, it shall be the duty of the corporation counsel to examine the title and such conveyances and papers, and if the title be not rejected for good cause by the corporation counsel, he shall cause the said conveyances to be recorded within sixty days after their delivery to him, and file them with the comptroller, and thereupon the city shall become vested with the title to the same effect and extent as if acquired by a proceeding taken for the opening of that portion of the street. After the making and acceptance of such conveyances, no proceeding to condemn the real property so conveyed shall be taken nor shall the real property fronting on that portion of the street so conveyed, and extending to the center block on either side of such portion of the street so conveyed, be chargeable with any portion of the expense of opening any portion of the residue of such street, except the fair proportion of the awards made for buildings.

§ 1317. City may agree with owners. The city may at any time, either before or after the appointment of commissioners, agree with the owner of the real property that will be benefited by, or may be required for the purpose of making the improvement, as to the cession by him of the real property required and as to the compensation to be made to him for the same, or as to the sum to be paid by such owner for the benefit of the improvement over and above the value of the real property, if any, that may be required. In case of such agreement or agreements, with part only of the owners, the same shall be valid and binding upon the parties thereto, and the commissioners shall proceed with their appraisal and assessment, and report to the court as to the residue of the real property required for the improvement, or to be bene-

fited thereby; and the report, when confirmed, shall be of like force and effect in regard to such residue as if no agreement as to the part of the premises had been made. When the opening of a street or an improvement mentioned in this article shall have been duly authorized the corporation counsel, with the approval of the board of estimate, may before making application for the appointment of commissioners prepare a report showing the damage, exclusive of the benefit which, in his judgment, accrues from the improvement to each owner of the real property required for the improvement. Such report shall set forth, as far as he has ascertained, the names of all owners of such real property, and where such owners cannot be ascertained, it shall be sufficient to describe them generally as "unknown." Attached to said report and forming a part thereof shall be maps showing the several parcels required for the improvement, and the corporation counsel may require the borough president of the borough in which the improvement is situated to furnish all maps required. Such maps shall specify in figures the dimensions and bounds of the various parcels and designate them by the block and lot numbers shown upon the tax map. He may employ appraisers and experts. Such report when approved by the board of estimate shall be certified by the corporation counsel and be thereupon deposited in the law department prior to giving notice of application for the appointment of commissioners, and such report shall remain on file in the department until the return day specified in the notice. Such report when filed shall be considered an offer on the part of the city to the owners of the real property required of the amounts specified therein or the real property required by the city. The notice shall refer to the report and state that the said court will grant the application only with reference to the real property the owners whereof shall not, on or before the return day, have filed with the corporation counsel a written acceptance of the amount specified in the report, in return for a conveyance of the real property required and shall state that the court will hear upon such day any person owning any real property included in the area of benefit determined by the board of estimate, who may oppose such agreement. Upon the application the court shall enter an order appointing commissioners of appraisal to appraise the real property for which no such written consent has been filed. Any person interested in the real property within the area of benefit may appear upon the application and object to the confirmation of the agreement between the city and an

owner of other real property. If the court, after a hearing, deem it proper, it may also appoint commissioners of appraisal with reference to real property, the owners of which shall have accepted the offer of the city made in the report of the corporation counsel, or may overrule the objections. When an agreement shall have been filed with the corporation counsel by an owner and no objections thereto shall have been made, or if made shall have been overruled by the court, the order appointing commissioners of appraisal may also confirm the report of the corporation counsel; and all provisions of law relating to the confirmation of the report of commissioners of appraisal shall apply thereto, and all provisions of law as to the payment of awards in reports of commissioners shall be applicable to the awards made in the report of the corporation counsel, except that no such awards shall be paid when a portion only of a parcel is taken unless the owner thereof file with the comptroller an acknowledged consent that such award be accepted on condition that the remainder of the parcel not taken shall be subject to the lien of any assessment made against it in the same proceeding. The filing of such consent in the office of the recording officer shall constitute a lien on such remaining property which, however, shall not be assessed for any portion of the expenses of the proceeding subsequent to such consent.

§ 1318. City entitled to compensation and liable to assessment. If any real property belonging to the city, or in which it have an interest, be required for a purpose aforesaid, or be benefited by such improvement, the city shall be entitled to compensation for the damage it may sustain, and shall pay for the benefit it may be deemed to acquire thereby, as other owners; and the commissioners of appraisal and the commissioner of assessment shall appraise or assess and report the sum or sums which in their opinion ought to be paid to or by the city, as the case may be. No assessment shall be imposed on any public park, square or place, or street, but such amounts may be properly payable by the city and shall be charged against it in gross.

§ 1319. Expenses of corporation counsel for assistants, clerks, stenographers and offices and other expenses; how paid and when to be assessed. All expenses of the corporation counsel for assistants, clerks, stenographers, offices, searcher's or surveyor's fees, and such other necessary expenses and disbursements which the city may incur under the provisions of this article shall be



paid out of the fund against which the cost of the improvement is chargeable; and if the board of estimate so direct, shall be borne by the owners of the real property deemed to be benefited, and be taxed by the court, upon proof of the services rendered, and disbursements charged as part of the costs and expenses of the proceeding; but such expenses and disbursements shall not be included in the assessment until after they shall have been taxed before a justice of the supreme court and have been directed to be so included by the board of estimate.

§ 1320. Costs, charges and expenses. Except as hereinbefore provided, no costs or charges of the commissioners, or others, shall be paid or allowed for any service performed under this article, unless the same shall have been taxed by the court after notice as provided in the following section. Upon such taxation, due proof of the nature and extent of the services rendered and disbursements charged shall be furnished and no unnecessary costs shall be allowed. Each of the commissioners of appraisal shall receive ten dollars for each day upon which he attends a meeting of the said commissioners and is actually and necessarily employed in the performance of the duties imposed upon him by this act, at the offices provided by the law department, or at a meeting of the commissioners to view the premises, provided the time necessarily required and actually spent at such meeting exceed one hour; and for each of all other meetings attended by such commissioner in which he is actually and necessarily employed in the performance of his duties, he shall receive five dollars. The compensation of the commissioner of assessment over and above his compensation as commissioner of appraisal shall not exceed a sum equal to fifty cents for each twenty-five hundred square feet of lands embraced in the assessment district and assessed by him. If, however, the assessment district be an entire borough or two or more entire boroughs the fees of the commissioner of assessment over and above his fees as commissioner of appraisal shall be fixed by the board of estimate in the resolution fixing the area of assessment, and the amount of fees as fixed by the board may be included in the assessment for benefit without taxation thereof by the court. All costs, fees and expenses or disbursements, taxed as in this article provided, shall be stated in detail in the bill of costs, and shall be accompanied by such proof by affidavit of the reasonableness and necessity thereof, as is now required by law and the practice of the court upon taxation of costs and disbursements in special proceedings.

§ 1321. Taxation of costs. A bill of such costs, charges and expenses shall be filed in the office of the clerk of the county in which the order appointing the commissioners shall have been entered, at least ten days before presentation to the court. There shall be annexed a statement of the amounts, if any, previously taxed, to whom the same were payable, and the date of such taxation. A notice of ten days shall be published in the City Record and served upon the corporation counsel of the time and place of taxation. The bill shall be taxed by a justice of the supreme court, before the report or reports be presented for confirmation; and the corporation counsel shall present upon such taxation his certificate that the items have been audited and examined by him, and the result of such audit. On the final taxation a bill previously taxed in the same proceeding may be retaxed if sufficient reason therefor appear.

§ 1322. Discontinuance of proceedings. The board of estimate may discontinue any proceeding instituted pursuant to this article at any time before title shall have vested in the city if, in its opinion, the public interest require, and cause a new proceeding to be taken. But in case of such discontinuance the reasonable cash disbursements necessarily and in good faith incurred by any party shall be paid by the city after taxation by a justice of the supreme court, upon ten days' notice.

§ 1323. Damages; when to be paid. Damages awarded by the commissioners of appraisal, with interest from the date of the report, and all costs and expenses which may be taxed, shall be paid by the city to the persons mentioned in the report, or in whose favor such costs or expenses shall have been taxed. Interest on sums awarded as damages shall cease to run six months after the confirmation of the report unless within that time demand therefor be made upon the comptroller. Such damages, costs and expenses shall be paid from the fund against which the cost of the improvement is chargeable. The persons to whom awards shall have been made, and the persons in whose favor costs and expenses shall have been taxed, shall not have an action at law against the city therefor, but the court, upon the application of such persons and on failure of the comptroller to pay the same within thirty days after demand, shall by order direct the payment of said awards, costs and expenses from the said fund, and enforce said order in the same manner as other orders of the court are enforced. When, however, the amount of damages

awarded together with the costs of the commissioners, exceed the balance remaining in the fund after deducting all outstanding claims against such balance, the comptroller shall raise by the issue and sale of revenue bonds or corporate stock such amounts as may be necessary to pay such damages, costs and expenses; and the court, upon the application of a person to whom awards shall have been made, or of a person in whose favor costs and expenses shall have been taxed, may direct the board of estimate and comptroller to raise the money necessary to pay such awards, costs and expenses, and that the same be paid from the fund, or of any person claiming to be interested in the real property for which such award shall have been made, or any part thereof, direct the same to be retained or paid into court, until the title thereto shall have been determined by the court, and the court may take the proof of the claimant or refer the matter to a referee for such purpose.

§ 1324. Moneys of persons under disability; how disposed of; moneys paid to wrong person. When an owner in whose favor any award shall have been reported be under legal disability, or absent from the city, and when the name of an owner be not set forth in the report, or when the owner, although named therein, cannot upon diligent inquiry be found, or where there are conflicting claims to an award, the city shall pay such award with interest into court, to be secured, disposed of, invested and paid out as other trust funds paid into court, to the credit of such owner or claimant as may establish his claim thereto, and such payment shall be as valid and effectual as if made to the owner; and in default of such payment the city shall remain liable for such award with lawful interest from a day one year after the confirmation of the report. When an award be paid to a person not entitled thereto, the person to whom it ought to have been paid may sue for and recover the same, with interest and costs, as so much money had and received to his use by the person to whom the same shall have been so paid. Payment of an award to the persons named in the report, if not under legal disability, shall in the absence of notice to the comptroller of adverse claims thereto protect said city.

§ 1325. Sums to be proportionately assessed. All moneys paid by the city, except such part as the board of estimate direct to be borne by the city or a borough or boroughs, shall be assessed proportionately, as far as practicable, upon the real property which

the board of estimate deem benefited, and shall be a lien thereon, and shall be levied and collected in the manner provided by law for the assessment, levy and collection of similar expenses and disbursements for the reimbursement of the city treasury.

§ 1326. Sums assessed to be liens. The sums assessed for benefit by the commissioner of assessment shall be a lien or charge on the real property specified in the said report; but nothing herein contained shall affect any agreement between landlord and tenant, or other contracting parties, respecting the payment of such assessment.

§ 1327. Disposition of buildings acquired for opening streets. The sinking fund commission may, prior to the confirmation of the report of commissioners of appraisal, or prior to the purchase or prior to the vesting in the city of title of the premises upon which there may be buildings or other structures or parts thereof agree, if title have not vested in the city, with the owner thereof or any person having a beneficial interest therein, and if title have vested in the city, with the person entitled to the award therefor, as to the compensation to be allowed by the commissioners to such owner or person, for the removal of such buildings or other structures or parts thereof, and the compensation to be allowed for the damage done such building or other structure in the acquisition of title thereto; and the commission may also, as a condition of the sale at private sale of the city's interest therein to the owner or person entitled to the award, agree that the damages awarded shall be the agreed compensation for the purpose of the removal thereof, provided, however, that such building or other structures or parts thereof shall not, in any case, be relocated or re-entered within the lines of any proposed street or other public improvement. Commissioners of appraisal shall accept such agreed amounts as the amounts to be awarded as such compensation and include them in their reports. The sinking fund commission shall prescribe such conditions in the terms of sale, and, if broken, the city shall be entitled to a re-sale of the property, and title thereto shall revert in the city.

§ 1328. Notice of application for appointment of commissioners; how posted. When handbills are required by statute to be posted, they shall be affixed with paste or other adhesive substance in three conspicuous places upon or adjacent to the real property to be taken, and proof of such affixing shall be sufficient without proof that such notice remained posted during the whole period.

§ 1329. Interest or assessments to be charged if not paid in sixty days. If any such assessment remain unpaid for the period of sixty days after the date of entry thereof in the record of titles and assessments, it shall be the duty of the officer authorized to collect and receive the amount of such assessment to charge, collect and receive interest thereon, at the rate of seven per centum per annum, to be calculated to the date of payment from the date when such assessment became a lien.

§ 1330. Chamberlain to publish notice of confirmation of assessment, et cetera. The corporation counsel shall transmit to the chamberlain, immediately after the confirmation of an assessment made under this article, a duplicate copy of the report of the commissioner of assessment relating thereto; and if such assessment affect property in boroughs other than the borough of Manhattan, a triplicate copy of the assessment list, and a certified copy of the order confirming the same. The chamberlain shall, as soon as practicable and within ten days after receipt thereof, publish notice for at least ten days, that the assessment has been confirmed, specifying the title thereof, the date of confirmation and the date of entry in the office of the collector of assessments and of arrears, notifying all persons that, unless the amount assessed for benefit on any property be paid within sixty days after the date of entry, interest shall thereafter be collected thereon, at the rate of seven per centum per annum to the date of payment from the date when such assessment shall have become a lien.

§ 1331. Assessments may be set off against awards. If an owner to whom an award shall have been made also own property against which an assessment has been entered for collection in the same proceeding, he may, at any time prior to receiving payment of the award, apply to the chamberlain to have the award set off against the assessment, and the chamberlain shall thereupon make such set-off as of the date of the entry of the assessment for collection in his office. If the award exceed the assessment, the city shall be liable for interest after the date of the set-off only on the amount of such excess. If the assessment exceed the award, the owner assessed shall be liable for interest after the date of the set-off on the amount of such excess, as if no set-off had been made. The city may also in such cases set off the assessment against the award in like manner.

§ 1332. Assessments confirmed by a court of record not to be

vacated or reduced. Nothing contained in this act relating to the vacation or reduction of assessments, not confirmed by a court of record, shall apply to assessments made and confirmed pursuant to this chapter.

§ 1333. Drains; acquisition of real property for. In a proceeding to acquire the right of way over, under or through real property required for a drain the time provided in this article for the publication of any notice shall be reduced one-half; and the time for the sitting of the commissioners to hear objections to their report shall be two days instead of ten days. Maps, that may be required for the use of the commissioner, shall be furnished by the borough president charged with the construction of the drain and be prepared by surveyors in the regular employment of such president. No expense of such maps or other expense shall be included in the assessment except the fees of the commissioners and their necessary disbursements, not exceeding two hundred and fifty dollars for clerical services, and for advertising, printing or posting notices and other incidental expenses, a sum not exceeding one hundred dollars. Each commissioner shall be entitled to receive the following compensation for his services: Where the drain is five hundred feet or under in length, twenty-five dollars; where the drain exceeds five hundred feet in length, twenty-five dollars, and five cents per foot for each running foot of drain in excess of five hundred feet, but in no case exceeding two hundred and fifty dollars.

### ARTICLE 3.

#### CONDEMNATION OF REAL PROPERTY FOR WATER-SUPPLY PURPOSES.

Section 1340. Acquisition of real property for water-supply purposes, authorized.

1341. Relocation of railroads and highways.

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Section 1340. Acquisition of real property for water-supply purposes authorized. When the board of estimate deem it necessary for the city to enter upon, acquire, take or use, any real property for the purpose of maintaining, preserving or increasing the supply of pure and wholesome water for the use of the city, or for the purpose of preventing the contamination or pollution thereof, the city may, in the manner herein prescribed, acquire any or all right, title and interest in and to such real property.

§ 1341. Relocation of railroads and highways. When real property acquired or used for railroad, highway or other public purpose, be required for water-supply purposes, the owner shall be allowed the perpetual use of the same or of other real property, adapted to and adequate for the same purpose, and shall not be subjected to expense, loss or damage by reason of any change of route or location. When such real property is sought to be taken or affected for water-supply purposes, there shall be designated upon the maps and described in the petition referred to in this article such other real property as it is proposed to substitute for that to be taken. The supreme court shall either approve the substitute route or location or refer the same back to the board of estimate for alteration or amendment, as often as necessary, and until the board determine such substituted route or location as may be approved by the court. An appeal to the appellate division from any order under the provisions of this section may be taken by any person aggrieved thereby, and shall be heard as a non-enumerated motion. The board of estimate shall provide for the

reconstruction of such railroad or highway and provide for the payment of the cost thereof. The supreme court shall determine, subject to review by the appellate division, what reasonable time after such reconstruction shall be sufficient within which to complete the change, and the city shall not be entitled to take possession or interfere with the use of such real property before the expiration of such time. Such time may be subsequently extended by the court, subject to review as aforesaid. After the expiration of the time so determined or extended, no use shall be made of such real property which shall pollute the water or obstruct the flow of water, or interfere with any construction for water-supply purposes.

§ 1342. Map to be prepared; public hearings upon project. When the board of estimate deem it necessary to acquire real property for water-supply purposes the board shall cause to be prepared a map of such real property. A copy of the map so prepared, with a certificate of the adoption thereof, signed by the secretary of the board, shall be filed in the office of the commissioner of water, gas and electricity and be open to public inspection, and shall be the map of the real property to be acquired, subject to such changes or modifications as the said board may from time to time deem necessary. Prior to the final adoption of such map the board shall afford to all persons interested a full opportunity to be heard and present evidence respecting it and the acquisition of the real property shown thereon, and shall give public notice of such hearing, by publication once in each week, for three successive weeks and in two newspapers published in the county or counties in which the real estate to be acquired or affected is situated.

§ 1343. Power to enter upon lands for the purpose of making maps. The city may enter in the daytime upon real property and any land or water on or contiguous to the line, course, site or track of any pond, lake, stream, reservoir, dam, aqueduct, culvert, sluice, canal, bridge, tunnel, pumping works, blow-off, shaft or other appurtenance, for the purpose of making surveys or examinations and posting notices.

§ 1344. Details of maps. After adoption of the map the board of estimate shall cause to be prepared six similar maps of the proposed site of any dam, reservoir, aqueduct, sluice, culvert, canal, pumping works, bridge, tunnel, blow-off, ventilating shaft and other necessary appurtenances of the work. Upon such maps there shall be laid out and numbered the various parcels of real



property on, over or through which the work is to be constructed and maintained, or which may be necessary for its prosecution, the natural and artificial division lines on the surface at the time of the survey, and there shall be plainly indicated of which parcels the fee or other interest is to be acquired. Such maps may be made and filed in sections. One or more sections may be filed and proceedings and the work thereon may be begun before the maps of the remaining sections are filed. The maps when adopted by the board of estimate shall be transmitted to the corporation counsel, with a certificate of approval written thereon signed by the secretary of the board.

§ 1345. Maps to be filed. The corporation counsel shall file one of said maps in the office of the recording officer of each county in which any real property laid out on said maps is located. The fourth, fifth and sixth maps shall be delivered to the commissioners as hereinafter provided.

§ 1346. Corporation counsel to conduct proceedings. After the maps shall have been filed, the corporation counsel shall, after notice as required in the next section, apply to the supreme court for the appointment of commissioners of appraisal, upon a petition, signed and verified by the commissioner of water, gas and electricity, setting forth the action taken by the board of estimate, the filing of the map, a general description of the real property sought to be acquired, each parcel being more particularly described by a reference to the number of the parcel given on the map; and the title, interest or easement sought to be acquired in each parcel, and praying the appointment of commissioners to appraise the same.

§ 1347. Notice to be given. The corporation counsel shall cause notice to be published in the City Record, and in two public newspapers published in each county in which any real property laid out on said maps is located if located outside of the city, of his intention to apply for the appointment of such commissioners, specifying the time and place of such application, the object of the application, and describing the real property sought to be taken. A statement of the boundaries of the real property, with separate enumerations of the numbers of the parcels to be taken in fee, and of the numbers of the parcels in which any other interest is to be acquired, with reference to the date and place of filing the map shall be sufficient description. Such notice shall be published, once in each week, in the City Record and in each of said news-

papers, for six weeks immediately previous to the presentation of the petition; and the corporation counsel shall cause copies of the same, in handbills, to be posted in at least twenty conspicuous places in the vicinity of the real property at least six weeks prior to said application.

§ 1348. Motion for appointment of commissioners of appraisal. At the time and place mentioned in the notice, or at the time to which the application may be adjourned, the court, upon proof to its satisfaction of the publication and posting aforesaid, and upon filing the petition, shall appoint three disinterested and competent freeholders, of whom one shall reside in the county of New York, one in the county in which the real property to be acquired is situated, and the third in some other county, commissioners of appraisal to appraise the just and equitable compensation to be made to the owners of the real property to be taken. The order shall fix the time and place for the first meeting of the commissioners.

§ 1349. City to become seized of real estate. On filing the oaths of the commissioners the city shall become siezed in fee of all those parcels shown on the map of which it has been determined that the fee shall be acquired, and shall be entitled to take and hold such interest in the parcels in which it has been determined that the fee shall not be acquired, as shall have been shown on the map and described in the petition, and may immediately or at any time take possession without any suit or proceeding. But at any time prior to the payment of the award therefor the supreme court, for due cause, may alter, revoke or annul the taking of any interest or fee, in which case the prior owner, to whom such interest or fee shall thereupon revert, shall be entitled to whatever damage he has sustained by reason of such taking or possession by the city.

§ 1350. Proceedings of commissioners. A commissioner may issue subpoenas and administer oaths to witnesses, and the commissioner, or any of them in the absence of the others, may adjourn the proceedings from time to time, but they shall continue to meet, from time to time, not to exceed two years, to hear and determine upon all claims which may be presented to them. In case of death, resignation, refusal, neglect or inability to serve, or failure to qualify of any commissioner, the corporation counsel shall, upon ten days' notice to be given by publication in the newspapers designated in this article, apply to the supreme court for the ap-

pointment of a commissioner to fill the vacancy. When the commissioners meet, except by appointment of the court, or pursuant to adjournment, they shall cause reasonable notice to be given to the attorneys for such parties as have appeared. The commissioners shall procure from the corporation counsel the fourth, fifth and sixth maps. They shall view the real property laid down on said maps, and hear the proofs and allegations, if any, of any owner or person interested in the real property and of the city. They shall also determine the height to which the waters of any lake, pond or natural stream concerning which such proceedings were instituted may be raised and the point to which such waters may be drawn down by the city before any award of damages shall be made on account of such proposed raising or depressing; and they may recommend what sum shall be paid to the general or special guardian or committee of a party under legal disability. After the testimony be closed, they shall, without unnecessary delay, determine the award which ought justly to be made by the city to the owners. The commissioners shall report their proceedings to the supreme court, with the minutes of the testimony, if any, taken by them.

§ 1351. Commissioners to prepare report. The commissioners shall prepare a report and a copy or copies thereof, as may be required, to which shall be respectively annexed the fourth and fifth, and, if required, the sixth map. The report shall contain a brief description of the parcels taken, with a reference to the map as showing the location and boundaries of each; a statement of the sum determined upon by them as a just compensation to be made by the city to the owner of each parcel and a statement of the respective owners and persons interested therein; but where the owners or parties interested, or their estates or interests are unknown, or not fully known, to the commissioners, it shall be sufficient to state the sums to be allowed to the owners and parties interested generally.

§ 1352. Report to be filed. The report signed by the commissioners, or a majority of them, shall be filed in the office of the clerk of the county in which the real property is situated. The commissioners shall notify the corporation counsel as soon as the report is filed.

§ 1353. Notice of motion to confirm report. The corporation counsel shall, or if he neglect to do so within twenty days after notice of filing, any person interested may give notice that the re-

port will be presented for confirmation to the supreme court at a specified time and place. The notice shall contain a statement of the time and place of the filing of the report, and shall be published in the newspapers designated in this article once in each week for at least four weeks immediately prior to presentation.

§ 1354. Confirmation of report. The application for confirmation of the report shall be made as specified in the notice. Upon the hearing the court may confirm the report, or in its discretion order that the report or any portion thereof affecting one or more parcels be referred to new commissioners for a new hearing. If confirmed, the court shall make an order, containing a recital of the substance of the proceedings with a general description of the real property appraised; and direct to whom the money is to be paid, or in what trust company it shall be deposited. Such report when so confirmed shall, except in the case of an appeal, be final and conclusive upon the city and the owners and all persons interested in the real property, and also upon all other persons.

§ 1355. Payment of awards. The city shall, within four calendar months after entry of the order confirming the report, pay to the owners mentioned in the report, in whose favor any awards shall be reported, the sums so reported, with lawful interest from the date of filing the oaths of the commissioners. In case of default in the payment of the awards within such time, a person in whose favor an award shall have been reported, or his legal representatives, at any time after demand filed with the comptroller for payment, may sue for and recover the same, with lawful interest and the costs of suit, and it shall be sufficient to declare generally for so much money due to the plaintiff by virtue of this article for real property taken; and the report and order confirming the report of said commissioners, with proof of the right and title of the plaintiff to the sum demanded, shall be conclusive evidence in such action, and entitle plaintiff to judgment.

§ 1356. Sum awarded to be deposited in certain cases. When an owner, in whose favor an award shall have been reported, shall be under legal disability or absent from the state without appearance by attorney or when the name of an owner be not stated in the report, or where such owner being named therein cannot, upon diligent inquiry, be found, or where there are conflicting claims to an award the city may pay the award, with interest, into such trust company as the court may in the order

of confirmation direct, to the credit of such owner, and such payment shall be as valid and effectual as if made to such owner; and where any such award shall have been paid to a person not entitled thereto, the person to whom the same ought to have been paid may sue for and recover the same, with interest and costs, as so much money had and received to his use by the person to whom the same shall have been so paid.

§ 1357. Who may present claim before commissioners. An owner or person interested in real property taken, or used and occupied for purposes contemplated by this article, and claiming compensation for such taking, use or occupation, shall, within one year after the appointment of commissioners, exhibit to the commissioners a statement of claim, and may offer testimony and be heard before them touching such claim, and the commissioners shall determine the same and the compensation therefor. A person failing to present his claim within such time shall be deemed to have surrendered his title or interest in such real property or his claim for damages thereto, except so far as he may be entitled to the sum of money awarded by the commissioners, or part thereof.

§ 1358. City protected by payment. Payment of the award to the person named in the report, if not under legal disability, shall, in the absence of notice to the comptroller of other claimants to such award, protect the city.

§ 1359. Separate reports may be made. The commissioners of appraisal may, in their discretion, take up any specified claim and finally determine the award to be made therefor, and make a separate report with reference thereto, annexing to such report a copy of so much of the maps as will show the parcel so reported on.

§ 1360. Proceedings in case of an appeal. Pending an appeal in a proceeding authorized by this article, the amount of the award with interest to date shall be deposited in such trust company as the court direct, and the funds so deposited shall remain with the trust company, subject to the further order of the court. In the case of a new appraisal in such a proceeding, the second report shall be final and conclusive on all parties. If an award be increased by the second report, the difference shall be paid to the owner or deposited, as the court may direct; and if the amount be diminished, the difference shall be refunded to the city by the trust company.

§ 1361. Removal of commissioners. The court may, at any time, remove any commissioner who shall be dilatory or inefficient or who, in its judgment, shall be incapable of serving, or for any reason unfit to serve. The cause of such removal shall be specified in the order making the same.

§ 1362. Compensation and expenses of commissioners. The commissioners shall receive as compensation for their services the sum of ten dollars per day for each day upon which the commissioners shall have been in session for at least four hours. In proceedings of a difficult or unusual character, the court may, upon taxing the fees and expenses of the commissioners, make such additional allowances, with the approval of the corporation counsel, to any or all of the commissioners as may to the court appear just and equitable, upon such proof as may be submitted concerning the nature and extent of the services rendered by the commissioners. The corporation counsel shall, either in person or by such assistants or other counsel as he may designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners under this article, including the taxation of fees, compensation and expenses. The compensation and expenses of such assistants or other counsel and such necessary clerks, stenographers, surveyors and other employees as the corporation counsel may designate to represent and aid him in the performance of his duties shall be paid upon the certificate of the corporation counsel. The fees of the commissioners and their necessary traveling expenses shall be paid when taxed before a justice of the supreme court upon eight days' notice to the corporation counsel. The fees of the commissioners shall not be taxed until their final report shall have been signed and filed. •

§ 1363. Present proceedings to be continued. All proceedings now pending for the acquisition of title for any of the purposes in this chapter specified shall be continued and prosecuted to a conclusion according to the provisions of law under which such proceedings shall have been commenced. All further or future proceedings under chapter seven hundred and twenty-one of the laws of nineteen hundred and five and the acts amendatory thereof shall be as provided in this chapter both as to remedies and procedure.

## ARTICLE 4.

## CONDEMNATION OF REAL PROPERTY FOR GENERAL PURPOSES.

## Section 1370. Application of article.

- 1371. Maps may be prepared; entry on premises for survey thereof.
- 1372. Appointment and qualification of commissioners.
- 1373. Duties of commissioners.
- 1374. Reports of commissioners, presentation thereof to the court.
- 1375. Confirmation of report; vesting of title.
- 1376. Copy of report to be filed with recording officers.
- 1377. When title may be vested by resolution.
- 1378. Notice of deposit and presentation of report; payments of awards with interest.
- 1379. Owners unknown, or under disability.
- 1380. Removal of commissioners.
- 1381. Powers of commissioners; fees; expenses.
- 1382. Effect of reversal on appeal.
- 1383. Source of payment of awards and expenses.
- 1384. Proceedings excepted from provisions of this article.

Section 1370. Application of article. When the city or any department, board, body or officer of the city or a county be authorized by law to acquire title by condemnation to real property for any public use or purpose, the proceedings shall be taken and conducted in the manner prescribed in this article, except as otherwise provided in this chapter.

§ 1371. Maps may be prepared; entry on premises for survey. When any real property shall have been selected for any city or county purpose except for the improvement of the water front or for ferry purposes other than one specified in any one of the preceding sections of this chapter and the board of estimate shall have determined to take proceedings for the acquisition of the same, the board shall cause two similar surveys, maps or plans thereof to be prepared, one of which shall be filed in the office of the board and the other of which shall be filed in the office of the recording officer.

§ 1372. Appointment and qualification of commissioners of appraisal. After the filing of the maps, plans or surveys in the offices of the board of estimate and the recording officer of the

county, and after the acquisition of the real property shall have been authorized by the board of estimate, the corporation counsel shall cause to be published notice of his intention to apply to the supreme court for the appointment of commissioners of appraisal, specifying therein the time and place of such application, the object of the application and describing, generally, the real property intended to be taken. Such notice shall be published in six successive issues of the City Record, and upon the completion of such publication the corporation counsel shall present to the supreme court a petition, signed and verified by the mayor, setting forth the action taken by the board of estimate, the filing of said map, plan or survey, and praying for the appointment of commissioners of appraisal. At the time and place mentioned in the notice, or at the time and place to which the same may be adjourned, the court, upon filing the petition and proof to its satisfaction, of the publication of the notice, shall appoint three discreet and disinterested persons, citizens of the United States, and residents of the city, commissioners of appraisal. In the order the court shall fix the time and place for a hearing as to the qualifications of the persons named as commissioners. Ten days' notice of the appointment of the commissioners shall be given by the corporation counsel, by mail or otherwise, to such parties, or their attorneys, as may have filed notice of claim or of appearance in the proceeding, and such notice shall be published in six successive issues of the City Record. The notice shall specify the time and place when parties may be heard by the supreme court, as to the qualifications of the persons appointed commissioners. Such persons shall attend at the time and place fixed in the notice, and be examined under oath, as to their qualifications. They shall be subject to challenge by any person having an interest in the proceeding, upon any ground which would disqualify a judge or juror, and such challenge must be tried and determined by the court, and the determination of the court may be excepted to and reviewed in the manner now prescribed by law in respect to the challenge of jurors. Should the court sustain the challenge to any commissioner, another person must be appointed in his stead. The person or persons thus substituted shall be subject to challenge in the same way, as above provided, to be heard and determined by the court, at such time and place as the court may direct.

§ 1373. Duties of commissioners. The commissioners, after having viewed the real property required for public uses, shall



make a just and equitable appraisal of the damage to the respective owners of such real property.

§ 1374. Reports of commissioners; presentation thereof to the court. The commissioners shall, within six months from the date of filing their oath, report to the supreme court, with the minutes of the testimony taken by them, under penalty of forfeiting all fees to which they would be entitled, unless an extension of time be granted by the court, upon a written petition containing a statement by the commissioners of the reasons therefor, and upon notice to the corporation counsel, and to the parties or their attorneys who have appeared in the proceeding. The court may make such order in respect to the time and manner of completing the report, the taking and submission of the proofs and the number and length of the hearings to be held in each week as will enable the commissioners to complete their proceedings with reasonable despatch. If it appear that the proceedings have been delayed, by reason of the inattention or neglect of a commissioner, the court may remove such commissioner and appoint a successor. The report shall contain a brief description of the parcels of real property taken, with a reference to the map, showing the location and boundaries of each parcel, a statement of the sum determined upon as a just and equitable compensation to be made by the city therefor, and of the names of the owners so far as ascertained. If the commissioners be unable to ascertain the name of the owner or owners of any parcel, they shall state that the owners of such parcel are unknown. After the commissioners shall have offered the parties interested an opportunity to file objections as hereinafter provided, the report, signed by the commissioners or a majority of them, shall be filed in the office of the secretary of the board of estimate, and a duplicate in the office of the clerk of the county in which the real property is situated. Thereupon the corporation counsel shall, or in case of his neglect to do so within ten days after such filing, any person interested may, give notice that the report will be presented to the supreme court for confirmation at a time and place specified. Such notices shall contain a statement of the time and place of the filing of the report, and shall be published in ten successive issues of the City Record, immediately prior to the presentation of the report, and a copy of said notice shall be served, by mail or otherwise, upon the attorney for each party who shall have appeared in the proceeding, at least five days before such presentation.

§ 1375. Confirmation of report; vesting of title. Upon the hearing of the application for the confirmation of the report, the supreme court shall either confirm the report in whole or in part or refer the same back to the same commissioners for revision and correction, or to new commissioners to be appointed by the court. The commissioners to whom the report shall be referred shall return the report, corrected and revised, or a new report, to be made as aforesaid, to the court, without unnecessary delay; and the same shall be confirmed or again referred, as justice require, and such report or part thereof when so confirmed by the court shall be final and conclusive upon all parties. On the final confirmation of the report, the city shall, unless title shall have vested as hereinafter provided, become seized in fee simple absolute of the real property included therein; and the city acting by and through the department, board, body or officer which, upon the acquisition of the title to said real property, will have jurisdiction thereof shall take immediate possession of such real property without suit or other judicial proceedings.

§ 1376. Copy of report to be filed with recording officer. Within ten days after the entry of the order confirming the report the corporation counsel shall file a copy of such order in the office of the recording officer. There shall be endorsed upon such copy a reference to the section and block or the sections and blocks on the land map of the county which include the real property taken, and the recording officer shall enter in the index of conveyances on each block so endorsed the title of the proceeding and the date of entry of the order confirming the report.

§ 1377. When title may be vested by resolution. Should the board of estimate by resolution adopted by a three-fourths vote deem it for the public interest that the title to the real property, or any part thereof, or any interest therein, should be acquired by the city at a specified time, the board may direct, by resolution passed before or after the application for appointment of commissioners, that at a date subsequent to the filing of the commissioner's oaths and specified in such resolution the title to such real property, or part thereof, or interest therein, shall vest in the city. At the date so specified the city shall become seized in fee of the real property or interests therein mentioned in said resolution. In such case the awards for such real property or interests therein shall bear interest from the date of vesting of title in the city to the date of the payment of the award. Upon such vesting

the city acting by and through the department, board, body or officer which upon the acquisition of the title to said real property will have jurisdiction thereof shall immediately take possession of such real property without suit or other judicial proceedings.

§ 1378. Notice of deposit and presentation of report; payments of awards with interest. The commissioners before presenting their report shall deposit a true abstract of their appraisal in the office of the board of estimate for inspection, and shall give notice by publication for ten days, Sundays and holidays excluded, of the date and place of such deposit and that any person interested in the proceeding and who may object to the same, or any part thereof, may, within ten days after the first publication of such notice, set forth his objections to the same in writing, duly verified, in accordance with the provisions of the civil code relating to the verification of pleadings in courts of record to the commissioners. The commissioners after hearing the parties so objecting shall reconsider their appraisal, or the part thereof objected to, and correct the same if it appears to them to require correction. The city shall, within two calendar months after the confirmation of the report, pay to the parties entitled thereto the sums awarded and reported in their favor, respectively, with interest from the date of entry of the order confirming the report, or if title shall have theretofore vested in the city as hereinbefore provided, from the date of such vesting; and in default thereof the parties or their legal representatives, successors or assigns, may, at any time after demand upon the comptroller for payment, sue for and recover the same with lawful interest and costs. Upon such application the applicant may state that outstanding taxes, or assessments, may be deducted from the amount otherwise payable, and such outstanding taxes or assessments shall not invalidate the application or operate as a bar to the collection of interest upon the award less the amount of such taxes or assessments.

§ 1379. Owners unknown or under disability. When an owner in whose favor an award shall have been reported be under legal disability, or absent from the city; or when the name of an owner be not stated in the report; or when such owner, being named therein, cannot, upon diligent inquiry, be found, or where there are conflicting claims to an award, the city shall pay the award, with interest, into the supreme court, to be secured, disposed of, invested and paid out, as other trust funds paid into court, to the credit

of such owner or claimant as may establish his claim thereto; and such payment shall be as valid and effectual as if made to the owner; and in default of such payment it shall remain liable for the amount due to such owner, with interest, from the day upon which the title vested in the city; when an award shall be paid to a person not entitled thereto, the person to whom it ought to have been paid may sue for and recover the same, with interest and costs, as so much money had and received to his use, by the person to whom the same shall have been so paid. Payment of an award to the persons named in the report (if not under legal disability) shall, in the absence of notice to the comptroller of adverse claims thereto, protect the city. The commissioners shall set forth in their report the names of the owners of the real property, and each parcel thereof, as far as ascertained by them, and add a designation and description of each parcel, and the several awards made therefor.

§ 1380. Removal of commissioners. The supreme court may at any time remove a commissioner if in its judgment he be incapable of serving, or for any reason unfit to serve. The cause of removal shall be specified in the order of removal. If a commissioner die, resign, fail to qualify, become insane or be disqualified, or refuse or neglect to act, or be removed, the court may as often as necessary, on the application of the board of estimate, appoint a new commissioner in the same manner as commissioners were originally appointed in the place of such commissioner, and the remaining commissioners may proceed with the execution of their duties until the new commissioner qualify. Ten days' notice of the application shall be given to all parties who have appeared in the proceeding. The new commissioner shall possess the same qualifications and be subject to challenge upon the same grounds and in the same general manner as hereinbefore provided for; and the time and place for such challenge shall be specified in the order appointing the new commissioner.

§ 1381. Powers of commissioners; fees; expenses. A commissioner may issue subpoenas and administer oaths to witnesses. Each commissioner shall be entitled to receive upon the confirmation of the report or other termination of the proceeding not exceeding ten dollars for each day upon which he shall have attended a meeting of the commissioners and shall have been actually and necessarily employed in the performance of his duties at the offices provided for the commissioners or at a meeting to view the real

property, besides his reasonable expenses, to be taxed and allowed by the court, together with the expenses incurred for maps, surveys, clerk hire and other necessary disbursements, and the same shall be paid as part of the expenses of acquiring the real property; provided, however, that in any proceeding now pending or hereafter instituted, pursuant to the provisions of this chapter or pursuant to the provisions of any other act providing for the acquisition of real property for the city for any public purpose, which is of a difficult or unusual character, the court, upon taxing the costs and expenses of commissioners, may, with the approval of the corporation counsel, make such additional allowances to any or all of the commissioners as may to it appear just and equitable, upon such proof as may be submitted concerning the nature and extent of the services rendered by the commissioners.

§ 1382. Effect of reversal on appeal. The reversal on appeal from the order of confirmation shall not divest the city of title to the real property affected thereby.

§ 1383. Source of payment of awards and expenses. The awards made in a proceeding brought under this article, and the fees of commissioners, the compensation of clerks, assistants and counsel, and other necessary expenses shall be paid out of the fund authorized by the act, ordinance or resolution authorizing the acquisition of the real property. Such fees and expenses shall not be paid until they shall have been taxed by the supreme court upon five days' notice to the corporation counsel, and upon proof of the nature and extent of the services rendered and disbursements charged. No unnecessary costs or charges shall be allowed. All costs, fees, expenses or disbursements to be taxed shall be stated in detail in the bill of costs, and shall be accompanied by such proof of the reasonableness and necessity thereof, as is now required by law and the practice of the court in special proceedings or actions. Proof by affidavit shall also be given of the dates of rendering services, and in the case of commissioners and clerks receiving a per diem allowance, the number of hours and parts of an hour necessarily occupied upon each date. No claim for compensation shall be taxed or paid except upon a certificate of the corporation counsel that the same has been audited and examined, with the result of such audit and examination.

§ 1384. Proceedings excepted from provisions of this article. This article shall not apply to proceedings to acquire real property for street purposes, or for the improvement of the water

front of the city or for ferry purposes or drains, sewers or for water-supply purposes, or to any proceedings of any nature instituted under the provisions of chapter four of the laws of eighteen hundred and ninety-one, chapter ten hundred and six of the laws of eighteen hundred and ninety-five, or of chapter seven hundred and twenty-four of the laws of nineteen hundred and five, or of chapter four hundred and twenty-nine of the laws of nineteen hundred and seven, or of any act amending or supplementing either of such statutes.

## CHAPTER XL.

### ACTIONS AND DEFENSES.

Article 1. General provisions. (§§ 1390-1397.)

2. Abatement of nuisance. (§§ 1410-1419.)

## ARTICLE 1.

### GENERAL PROVISIONS.

Section 1390. Appearance by city; actions to be brought against the city.

1391. Claims and actions for personal injuries, for death or for damage to property.

1392. Other claims; presentation of claim and notice of intention to commence an action or proceeding.

1393. Evidence of agreement inadmissible.

1394. Process; trial; execution.

1395. Enforcement of ordinances.

1396. Injunctions.

1397. Existing rights and remedies preserved.

Section 1390. Appearance by city; actions to be brought against the city. In all actions and proceedings heretofore commenced and now pending, by reason of which there may be a liability on the part of the city, against any officer of the city or against any department, board, body or an officer, employee or subordinate thereof, or in which any act, order, regulation or proceeding of any department, board, body, office or officer or employee thereof, is called in question or made the subject of the action or proceeding, the city shall have the right to appear and take part. Except as otherwise provided in this act, all actions hereafter commenced as a result of which there may be a liability on the part of the city, including actions affecting corporations

§ 1395. Enforcement of ordinances. The city may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with an ordinance or restrain by injunction a violation thereof, notwithstanding that a penalty be provided for its violation.

§ 1396. Injunctions. No preliminary injunction shall be granted against the health or tenement-house department, or an officer or employce thereof, except by the supreme court, after service of at least five days' notice of the motion for such injunction, together with copies of the papers upon which the motion for such injunction is to be made.

§ 1397. Existing rights and remedies preserved. No right or remedy of any character shall be lost or impaired or affected by reason of this act, nor shall the same affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act shall take effect or by virtue of any laws repealed or modified by this act, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed or said laws had not been repealed or modified, and all actions, proceedings or prosecutions under any act herein repealed or modified, or under any charter or law relating to any of the municipal and public corporations heretofore united and consolidated to form the city of New York and pending when this act shall take effect, including the counties of Kings, Queens and Richmond, may be prosecuted and defended to final effect in the same manner as they might under such laws, unless herein otherwise specially provided; and such actions, proceedings or prosecutions may be continued without change of name or title, or on motion the city may be made a party or be substituted as plaintiff or defendant.

## ARTICLE 2.

### ABATEMENT OF NUISANCES.

Section 1410. Suits to abate nuisances.

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1414. Appeals and stays.

1415. Judgment of appellate division.

1416. Statement of expense of execution.

1417. Execution thereupon.

**Section 1418. Injunctions in abatement suits.****1419. Suits or appeals may be preferred.**

**Section 1410. Suits to abate nuisances.** The city may institute and maintain in any court in the city having jurisdiction of an action to recover a sum of money only where the amount claimed exceeds one thousand dollars an action at law or suit in equity to abate a nuisance declared to be a nuisance by or pursuant to statute or ordinance. It may join therein a cause of action for a penalty or penalties incurred by a defendant in respect of such nuisance. Costs collected shall be paid to the city chamberlain. The court shall allow the plaintiff, at any proper stage of the case, to amend, by joining other parties defendant; and a suit shall not be dismissed or defeated by reason of the nonjoinder of parties defendant.

§ 1411. Trial. Such suit shall be tried by the court without a jury, unless a defendant shall, in his answer, or by notice in writing to be served on plaintiff's attorney within five days after service of his answer, demand a trial by jury on a question of fact, to be distinctly stated, and in respect of which a right of trial by jury exists. If any such demand be so made and served, the case shall, as to all the defendants, be placed on the calendar of jury trial cases as a preferred case; and when moved for trial, if issues of fact for the jury have not before been settled, the presiding judge may state in writing the issues of fact to be submitted to the jury, or if he does not do so the trial shall proceed upon the material issues of fact made by the pleadings. The judge who presided at the trial, or another judge of the same court, if such judge be unable to proceed therewith, shall settle and cause to be entered the proper judgment.

§ 1412. Contents of judgment. If the judgment be that any nuisance be abated, in whole or in part, it shall contain sufficient directions for its proper execution, and the judge shall find and state what proportion of the expense of such execution and what penalties, if any, shall be paid by each or all of the defendants, jointly or severally. If, in the opinion of the court, the whole or any part of the expense of such execution should be borne by the city, or the execution of such judgment should be made by any department, board, body or office, or under its direction, the judgment shall contain the appropriate directions. Such judgment, if against any defendant, shall, on its face, state that it will be a lien on the real property of such defendant, till his



proportion of such expenses of execution is satisfied, or the lien thereof shall be otherwise discharged.

§ 1413. Lien of judgment; how removed. Any person prejudicially affected by the lien of any such judgment may, on five days' notice to the corporation counsel, make a motion before any judge of the court in which such judgment was rendered for an order that the lien of the judgment be discharged as to all or any specific property. If it appear to such judge, on the hearing of such motion, that such judgment has been executed and the expenses secured by the lien have been paid, or if a sufficient undertaking or bond, with sureties, shall be given for the payment of such expenses, or if the corporation counsel shall, in writing, consent to the discharge of the lien, as to any or all property referred to, or as to one or more defendants, such judge may order such lien discharged of record by the proper officer, to the extent and as to the person or persons that the order shall specify. Such order and the moving papers shall be filed with the proper clerk, as the judge may direct.

§ 1414. Appeals and stays. An appeal by any defendant shall only stay the execution of a judgment to the extent, in reference to the persons, and on the conditions the judge who tried the case, or another judge of the same court, shall, on the settling of the judgment, or on motion, on four days' notice to the corporation counsel, specially order. If no such order be made, the judgment shall be executed, notwithstanding any appeal, undertaking or security, and without any liability on the part of any person by reason of any damages or consequences growing out of the execution of such judgment, whether the same be reversed or not. An appeal by a defendant from a judgment shall be taken within thirty days after notice, in writing, to the defendant or his attorney, of the entry of judgment and the judge who tried the case may, in his discretion, order a stay as to the execution of the judgment for the period of such thirty days. Within such period of thirty days an undertaking or security on appeal must be filed, of the form and obligation required in ordinary appeals from judgments, and conditioned also for the payment of the appellant's adjudged share of the expenses of executing such judgment, or if not estimated in said judgment, as the judge, on application and three days' notice to the corporation counsel, shall estimate, in conformity with the judgment, for the purpose of determining the amount of security on appeal. If the appeal be

not so perfected the execution of a judgment against a defendant shall not be delayed beyond thirty days from its entry. The city may appeal from the whole or any part of the judgment within thirty days after entry, and such appeal shall operate as a stay as to the part of the judgment appealed from.

§ 1415. Judgment of appellate division. If judgment of the appellate division modify the judgment appealed from, it shall contain specific directions as to its execution. Either party may appeal to the court of appeals, and the provisions of this chapter as to appeals from the judgment to the appellate division and as to the security on appeal, including the length of time within which to appeal, apply to such appeal.

§ 1416. Statement of expense of execution. If the corporation counsel decide that the public interests demand the execution of a part only of the judgment, a verified statement of the expenses of the execution of such part shall be made containing an apportionment thereof, which shall not be contrary to any provisions of the judgment. Such statement shall be filed with the judgment, and notice of such filing and a copy of the statement shall be served on the attorneys of the defendant in the suit, or the defendants, or one of the joint defendants. Unless within ten days after such service, such defendants give due notice in writing, to the corporation counsel, of a motion, and serve therewith copies of affidavits to correct such statement in particulars separately and clearly stated in such affidavits, such statement shall be final and conclusive, and no formal defect therein shall vitiate the same. On the hearing of such motion the city may read affidavits in support of such original statement; and the finding of any judge on the hearing of such motion, as to such statement of expenses and other matters in such motion involved, shall be final and conclusive, and not subject to appeal; and such finding, or statement as modified by such finding, when filed, shall be of the same effect as the original statement if no motion in regard thereto had been made, and for the purpose of an execution for such expense, and creating a lien under a judgment, such statements and finding or modified statement shall be regarded as a part of said judgment, and the lien thereof shall extend to any amounts stated in such final statement and finding. In so far as a judgment may be directed to be executed at the expense of the city, or by any party defendant at his own expense and be by such party defendant so executed, the expenses of such execution

shall not be stated or embraced in such statement or findings of expenses; but if any part of the expense of execution aforesaid, which any party should have borne or paid, be paid, borne or incurred by the city the amount thereof shall be included in such statement and finding, and collected by execution.

§ 1417. Execution thereupon. For the proportion and amounts as authorized by such judgment, and contained in such finding or in such statement or modified statement, when either of the same shall have become final, the city shall have execution, on application, ex parte, to a judge of the court in which the judgment was recovered, and such execution shall, in due form, be allowed by such judge. Such execution shall be against any one or more defendants or joint defendants for the recovery of any amount due from such defendant, or defendants, which the party claiming such execution is entitled to receive, and, except as herein specially provided, shall be of the same effect and form as an execution duly issued pursuant to any judgment. No execution shall be issued against any defendant for less than the whole sum due from such defendant, or for less than he shall be liable to pay in such suit, except that a sum adjudged against a defendant or defendants, in such abatement suit for penalties, costs or for cause other than the expense of the abatement of such nuisance, may be collected by separate executions.

§ 1418. Injunction in abatement suits. In such abatement suit the court or a judge thereof may issue and enforce an appropriate preliminary injunction, whenever it shall be asked for by the city, and there appear to such court or judge to be reasonable cause therefor. Such injunction may also be granted whenever it shall be made to appear to the court or a judge thereof, by affidavit, that such injunction is needed, to prevent any illegal act, conduct or business aforesaid or its continuance, or any serious danger to human life or serious detriment to health, or great public inconvenience, concerning any matter or thing to which the provisions of this act relate. In any such injunction order the court may require any building, erection or grounds to be put in a condition that will not be dangerous to the life or detrimental to the health of an occupant, before the same shall be leased, or rented, or occupied, or before any rent or compensation shall be collected for the rent or use of the whole or any portion of the same. In any such injunction order, and also in any judgment in any abatement suit, the judge or court may

require the tenants, lessees and occupants, or either or any of them, of any such building, erection or grounds, to pay rent thereof, or compensation therefor, due or to become due to the city, and such city to collect, receive and apply such rent to the payment of the expenses of putting such building, erection or ground in a condition that will not be dangerous to life or detrimental to health. Such collections and payments shall be made as the court shall by order or judgment provide; and every such payment to said city, and the receipt of the chamberlain for such rent or compensation, shall be as effectual to protect any person who has made the same, and every such tenant, lessee and occupant, and all his and their rights under any lease or occupation, as if such payment had been made to, and such receipt had been given by, the lessor or owner, or any proper claimant of any such rent or compensation, who had, but for such order or judgment, the right and authority to receive the same. Any matter or thing which would be the proper subject-matter of a preliminary injunction may be enjoined by the final judgment in an abatement suit brought under this chapter.

§ 1419. Suits or appeals may be preferred. The court in which any suit or appeal under this chapter shall be pending, or a judge thereof, may, on application of the city, order the same to be preferred in the trial or argument thereof.

## CHAPTER. XLI.

### MISCELLANEOUS PROVISIONS; SAVING AND CONSTRUCTION; WHEN ACT TAKES EFFECT.

#### Section 1430. Penalties.

- 1431. Cemeteries in borough of Queens.
- 1432. Cancellation of taxes, water rents, assessments, tax sales and tax liens.
- 1433. Determination of controversies as to transfer.
- 1434. Current expenses provided for.
- 1435. Sections of Greater New York charter continued in code of ordinances.
- 1436. Extension of application of certain acts.
- 1437. Construction.
- 1438. Rapid transit act not to be affected by.
- 1439. Board of water supply; act not affected.
- 1440. Franchises and other grants not affected.
- 1441. Saving clause.

## Section 1442. Laws repealed.

## 1443. When to take effect.

Section 1430. Penalties. The violation of any provision of this act shall constitute a misdemeanor. Punishment for the violation of an ordinance may be fixed in the ordinance or by general ordinance. The violation of an ordinance, unless punishment therefor be otherwise provided by ordinance, shall be punishable by fine not exceeding five hundred dollars or by imprisonment for not exceeding six months, or both such fine and imprisonment. The violation of an ordinance may, in addition to other punishment prescribed therefor, if any, be made by ordinance punishable by a penalty, not exceeding one thousand dollars, recoverable by the city in a civil action.

§ 1431. Cemeteries in borough of Queens. No person shall hereafter acquire or set apart lands for cemetery purposes in the borough of Queens or Richmond; but an existing cemetery may use for cemetery purposes lands now owned and used for business purposes in connection with such cemetery.

§ 1432. Cancellation of taxes, water rents, assessments, tax sales and tax liens. The sinking fund commission may, by unanimous vote, cancel any tax, water rents, assessment tax sale or tax lien upon real property exempt from tax, water rents or assessment under subdivision seven of section four of the tax law at the time such tax, water rents or assessment became a lien.

§ 1433. Determination of controversies as to transfers. The sinking fund commission shall determine all controversies that may arise between elective officers or between elective officers and appointive officers as to the transfer of subordinates and appropriations under this act. All such controversies between appointive officers shall be determined by the mayor. Any such determination shall be final.

§ 1434. Current expenses provided for. The comptroller shall issue special revenue bonds to the amount that may be required to pay all salaries, compensation, operating and other expenses needed to carry out the purposes of this act for which appropriation has not been made or for the payment of which funds are not available and for which other provision is not made in this act.

§ 1435. Sections of Greater New York charter continued in code of ordinances. The several sections of the Greater New York charter, being chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven as continued in

force by chapter four hundred and sixty-six of the laws of nineteen hundred and one, except as repealed by the enactment of ordinances as provided in section three of chapter four hundred and sixty-six of the laws of nineteen hundred and one, set forth in the schedule entitled "first schedule;" and the several sections of the Greater New York charter as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, and the laws amendatory thereof, set forth in the schedule entitled "second schedule," notwithstanding the repeal of said charter by this act, shall constitute ordinances and be sections of the code of ordinances, and such sections shall be subject to amendment or repeal by the board of aldermen as are other ordinances.

§ 1436. Extension of application of certain acts. The extension to the city of New York as now constituted, of the acts applicable to the corporation known as the mayor, aldermen and commonalty of the city of New York, made by section sixteen hundred and ten of chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven and section sixteen hundred and ten of chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby continued.

§ 1437. Construction. This act is intended to be and shall be deemed and held in all courts to be a public act, of which they shall take judicial notice. This act shall be construed, not as an act in derogation of the powers of the state, but as one intended to aid the state in the execution of its duties, and shall be liberally construed so as to carry into effect the objects and purposes hereof. A provision of this act, so far as substantially the same, or covering the same subject-matter, as a law repealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as a new enactment. References in a law to the provisions of a law incorporated in this act or repealed hereby and incorporated herein shall be construed as applying to the provisions so incorporated. The meaning and effect of the terms and language used herein and of the provisions hereof shall be construed in accordance with the provisions of the general construction law, except where the meaning is defined or the effect is declared in this act. The repeal of the acts or parts of acts enumerated in the schedule of laws repealed shall not be construed as thereby continuing in force any other act or part of act inconsistent with this act. Nothing in this act shall be construed as amending or repealing any pro-

vision of the penal law or the criminal code, or as affecting any assessments for local improvements heretofore or hereafter levied against state property for local improvements, or as repealing or modifying any of the provisions of section twenty-one of the public lands law.

§ 1438. Rapid transit act not to be affected. Except as otherwise provided in this act, nothing in this act contained shall be deemed to repeal or affect the provisions of the rapid transit act, being chapter four of the laws of nineteen hundred and one, as amended and supplemented, provided that as to any matter requiring the consent of the board of estimate and apportionment under the rapid transit act, or any amendment thereof, the separate consent of the mayor shall also be necessary, and the board of estimate and the comptroller shall be subject to all the duties and obligations therein prescribed for the board of estimate and apportionment and comptroller.

§ 1439. Board of water supply; act not affected. Nothing contained in this act shall be deemed or construed to repeal or in any wise to affect chapter seven hundred and twenty-four of the laws of nineteen hundred and five, or said act as amended and supplemented.

§ 1440. Franchises and other grants not affected. This act shall not affect any grant or franchise or property or rights or property rights or other grant made by the Nicolls charter, the Dongan charter, the Cornbury charter, the Montgomerie charter, by the confirmatory act passed the fourteenth day of October, seventeen hundred and thirty-two, or by any other charter granted to or act in respect of the corporation known as the mayor, aldermen and commonalty of the city of New York, by the state of New York, or granted by the state to the city of Brooklyn or to any other municipal or public corporation heretofore united and consolidated to form the city, or to the city of New York.

§ 1441. Saving clause. Nothing contained in this act shall be construed as repealing any statute of the state or ordinance of the city or rule or regulation of the board of health, not inconsistent with the provision of this act, and the same shall remain in full force and effect, when not inconsistent with the provisions of this act, to be construed and operated in harmony with its provisions. The powers conferred and the duties imposed upon any officer or department under any statute, or an ordinance now in force shall, if the office or department be abolished by this act,

be thereafter exercised and discharged by the officer, board, body or department upon whom or which is imposed corresponding or like functions, powers and duties under the provisions of this act. When a contract shall have been heretofore entered into by the city, or any bond or undertaking given to or in favor of the city, which provides that the same may be enforced by an officer, board, body or department therein named, and by the provisions of this act such office, board, body or department is abolished, such contracts, bonds and undertakings shall continue in full force, and the powers conferred and the duties imposed with reference thereto upon the officer, board, body or department abolished, shall be exercised and discharged by the officer, board, body or department upon whom is conferred or imposed like powers, functions or duties under the provisions of this act.

§ 1442. Laws repealed. The following acts and parts of acts are hereby repealed:

1. Of the laws enumerated in the third schedule hereto annexed entitled "laws repealed," that portion thereof specified in the last column.

2. All acts or parts of acts, in so far as inconsistent with the provisions of this act.

But such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws purporting to amend specifically any of the laws hereby specifically repealed.

§ 1443. When to take effect. This act shall take effect immediately.

### **First Schedule.**

#### **Title.**

- |         |   |
|---------|---|
| Section | 346. Police board; licenses for public exhibitions.                             |
|         | 347. Idem; police board; licenses to emigrant boarding-houses; bond.            |
|         | 348. Idem; licenses to bookers of emigrant passengers.                          |
|         | 349. Idem; licenses to runners; bonds.  |
|         | 760. Shavings; how to be stowed away.   |
|         | 762. Lights, precautions against fire and use of aisles in places of amusement. |
|         | 763. Gunpowder and other explosives; sales thereof regulated.                   |
|         | 765. Petroleum and coal oils, et cetera; sale thereof.                          |
|         | 768. Fires and lights on vessels transporting petroleum.                        |
|         | 769. Storage of certain chemicals regulated.                                    |



Section 770. Idem; storage; storage of certain vegetable products.

773. Fines and penalties.

1207. As to rags, hides and skins.

1208. Unsound cotton.

1209. Unsound articles, or deposited contrary to orders.

1211. Penalties for disobedience.

1212. Offensive trades.

1213. Filling in lands.

1214. Yards and cellars.

1223. Separate receptacles for ashes and garbage.

1227. Driving and slaughtering cattle, sheep, swine, pigs or calves regulated.

1454. Municipal assembly to regulate driving, et cetera.

1455. Law of the road.

1456. Rubbish, nails, et cetera, not to be thrown in the streets.

1457. Processions and parades; regulations concerning.

1462. Willfully breaking street lamps, et cetera.

1463. Idem; detaining offender until name ascertained.

1465. Idem; preceding sections no bar to suit by person injured.

1465. Idem; informer relieved of penalty, et cetera.

1466. Definition of "street."

1472. Public exhibitions to be licensed.

1473. Police department grants license; fee; penalty for neglect to obtain license.

1474. Idem; commutation of license fee.

1475. Idem; fees to be paid over to comptroller.

1476. Revocation of license.

1477. Penalty for violating provisions of this title.

1478. Police, et cetera, to arrest offenders.

1479. Corporation counsel may enjoin exhibitions without license.

1480. Preceding sections not applicable to certain performances.

1481. Exhibitions on Sunday prohibited.

1482. Minors under fourteen unaccompanied by adult not to be admitted to theaters at night.

1483. Prohibition of sale of spirituous liquors and employment of female waiters.

- 1484. Violation of preceding section annuls license.
- 1486. Police, et cetera, to enter places of amusement and arrest offenders.
- 1487. Doors and exits to be conspicuously numbered; diagrams to be printed on programs.

### **Second Schedule.**

- 34. Licenses to auctioneers.
- 51. Licensing and regulating certain trades or business.
- 316. Idem; general powers over certain trades.
- 317. Idem; may examine pawnbrokers' books.
- 318. Idem; suppression of gaming and other houses.
- 342. Steam boilers; inspection of; not to be operated without certificate.
- 343. Idem; no person to use, or act as engineer for, without certificate.
- 344. Idem; record of inspection to be kept.
- 345. Idem; overpressure forbid; owner to report boiler.
- 399. Penalty for injury to sewers.
- 481. Certain acts misdemeanors.
- 482. Idem; continued.
- 529a. No person to operate moving picture apparatus and its connections without a license.
- 545. Proceedings for removal of trucks, et cetera, from streets regulated.
- 749. Hose bridges on railroad tracks.
- 750. Fire hydrants not to be obstructed.
- 755. Idle persons, et cetera, may be removed from fires.
- 764. Fireworks and explosive compounds; manufacture and sale thereof.
- 766. Idem; continued.
- 772. Information to be furnished by holders of permits.
- 856. Occupation of waters by ships not entitled thereto.
- 857. Failure to remove when ordered; penalty.
- 866. Penalty for vessels wrongfully entering canal boat territory.
- 867. Powers of dock masters to assign and regulate stations for vessels; penalty for refusing to obey direction.
- 880. Certain substances not to be dumped in port of New York.

Section 881. Scows to receive ashes, et cetera, from steam tugs and vessels.

1204. Removal of dead bodies.

1205. Removal of night soil and offal.

1210. Putrid cargoes may be destroyed.

1248. Affidavit may be required.

1249. Penalty for failing to report.

1250. Boarding and lodging-house-keepers may be required to report.

1313. Inspection twice a year; officers to have access.

1314. Houses hereafter erected to comply with additional requirements.

1315. Construction of lodging-houses and spaces prescribed for building the same.

1316. Dimensions and ventilation of rooms.

1317. Penalties for violations of provisions.

1318. Power of bureau of buildings and board of health to make other regulations relative to lodging-houses.

1488. Public dance hall; defined.

1489. Public dance hall dancing academy forbidden without a license.

1490. Public dance hall; license of; requirements.

1491. No license without report after inspection.

1492. Public dance halls; sale of liquors therein.

1493. License; when forfeited or revoked.

1494. Inspectors and other officials.

1562. Waters and shores to be kept pure and clean.

1563. Illegal to assist in towing or sailing vessels laden with garbage, et cetera.

1564. Penalties for violations of last two sections.

### **Third Schedule.**

#### **LAWS REPEALED.**

Laws of	Chapter	Section
1897.....	378.....	All
1897.....	382.....	All
1897.....	385.....	All
1897.....	426.....	All
1897.....	523.....	All
1897.....	528.....	All

Laws of	Chapter	Section
1897.....	529.....	All
1897.....	531.....	All
1897.....	629.....	All
1897.....	630.....	All
1897.....	631.....	All
1897.....	635.....	All
1897.....	637.....	All
1897.....	642.....	All
1897.....	663.....	All
1897.....	667.....	All
1897.....	672.....	All
1897.....	696.....	All
1897.....	710.....	All
1897.....	719.....	All
1897.....	735.....	All
1898.....	91.....	All
1898.....	380.....	All
1898.....	381.....	All
1898.....	389.....	All
1898.....	391.....	All
1898.....	432.....	All
1898.....	515.....	All
1898.....	546.....	All
1898.....	573.....	All
1898.....	602.....	All
1898.....	650.....	All
1898.....	652.....	All
1899.....	74.....	All
1899.....	126.....	All
1899.....	130.....	All
1899.....	161.....	All
1899.....	196.....	All
1899.....	212.....	All
1899.....	254.....	All
1899.....	261.....	All
1899.....	281.....	All
1899.....	313.....	All
1899.....	367.....	All
1899.....	379.....	All
1899.....	417.....	All

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Laws of	Chapter	Section
1899.....	433.....	All
1899.....	500.....	All
1899.....	564.....	All
1899.....	568.....	All
1899.....	612.....	All
1899.....	644.....	All
1899.....	674.....	All
1899.....	691.....	All
1899.....	698.....	All
1899.....	699.....	All
1899.....	706.....	All
1900.....	7.....	All
1900.....	82.....	All
1900.....	83.....	All
1900.....	155.....	All
1900.....	247.....	All
1900.....	283.....	All
1900.....	284.....	All
1900.....	461.....	All
1900.....	463.....	All
1900.....	615.....	All
1900.....	620.....	All
1900.....	623.....	All
1900.....	629.....	All
1900.....	630.....	All
1900.....	632.....	All
1900.....	649.....	All
1900.....	663.....	All
1900.....	709.....	All
1900.....	713.....	All
1900.....	718.....	All
1900.....	744.....	All
1900.....	751.....	All
1900.....	757.....	All
1901.....	33.....	All
1901.....	67.....	All
1901.....	93.....	All
1901.....	182.....	All
1901.....	186.....	All
1901.....	412.....	All

Laws of	Chapter	Section
1901.....	456.....	All
1901.....	466.....	All
1901.....	647.....	All
1901.....	713.....	All
1901.....	714.....	All
1901.....	715.....	All
1901.....	718.....	All
1901.....	720.....	All
1901.....	723.....	All
1901.....	724.....	All
1901.....	730.....	All
1901.....	733.....	All
1902.....	84.....	All
1902.....	192.....	All
1902.....	256.....	All
1902.....	435.....	All
1902.....	436.....	All
1902.....	441.....	All
1902.....	453.....	All
1902.....	509.....	All
1902.....	530.....	All
1902.....	546.....	All
1902.....	550.....	All
1902.....	553.....	All
1902.....	563.....	All
1902.....	569.....	All
1902.....	583.....	All
1902.....	589.....	All
1902.....	590.....	All
1902.....	604.....	All
1902.....	609.....	All
1902.....	611.....	All
1902.....	612.....	All
1903.....	43.....	All
1903.....	60.....	All
1903.....	103.....	All
1903.....	159.....	All
1903.....	177.....	All
1903.....	210.....	All
1903.....	253.....	All

Laws of	Chapter	Section
1903.....	258.....	All
1903.....	301.....	All
1903.....	304.....	All
1903.....	379.....	All
1903.....	388.....	All
1903.....	395.....	All
1903.....	396.....	All
1903.....	406.....	All
1903.....	409.....	All
1903.....	410.....	All
1903.....	417.....	All
1903.....	418.....	All
1903.....	436.....	All
1903.....	437.....	All
1903.....	438.....	All
1903.....	439.....	All
1903.....	454.....	All
1903.....	510.....	All
1903.....	511.....	All
1903.....	514.....	All
1903.....	536.....	All
1903.....	612.....	All
1903.....	624.....	All
1904.....	71.....	All
1904.....	90.....	All
1904.....	247.....	All
1904.....	250.....	All
1904.....	274.....	All
1904.....	341.....	All
1904.....	343.....	All
1904.....	358.....	All
1904.....	362.....	All
1904.....	369.....	All
1904.....	370.....	All
1904.....	375.....	All
1904.....	396.....	All
1904.....	399.....	All
1904.....	409.....	All
1904.....	413.....	All
1904.....	455.....	All

Laws of	Chapter	Section
1904.....	457.....	All
1904.....	512.....	All
1904.....	532.....	All
1904.....	542.....	All
1904.....	577.....	All
1904.....	597.....	All
1904.....	599.....	All
1904.....	600.....	All
1904.....	602.....	All
1904.....	618.....	All
1904.....	624.....	All
1904.....	626.....	All
1904.....	627.....	All
1904.....	628.....	All
1904.....	676.....	All
1904.....	683.....	All
1904.....	684.....	All
1904.....	700.....	All
1904.....	701.....	All
1904.....	732.....	All
1904.....	736.....	All
1904.....	740.....	All
1904.....	741.....	All
1904.....	756.....	All
1904.....	757.....	All
1905.....	24.....	All
1905.....	70.....	All
1905.....	107.....	All
1905.....	180.....	All
1905.....	187.....	All
1905.....	292.....	All
1905.....	299.....	All
1905.....	305.....	All
1905.....	330.....	All
1905.....	334.....	All
1905.....	373.....	All
1905.....	512.....	All
1905.....	515.....	All
1905.....	516.....	All
1905.....	517.....	All



Laws of	Chapter	Section
1905.....	525.....	All
1905.....	528.....	All
1905.....	531.....	All
1905.....	532.....	All
1905.....	533.....	All
1905.....	552.....	All
1905.....	557.....	All
1905.....	581.....	All
1905.....	583.....	All
1905.....	610.....	All
1905.....	621.....	All
1905.....	629.....	All
1905.....	630.....	All
1905.....	632.....	All
1905.....	633.....	All
1905.....	637.....	All
1905.....	638.....	All
1905.....	639.....	All
1905.....	648.....	All
1905.....	661.....	All
1905.....	726.....	All
1905.....	735.....	All
1906.....	96.....	All
1906.....	152.....	All
1906.....	153.....	All
1906.....	190.....	All
1906.....	192.....	All
1906.....	207.....	All
1906.....	208.....	All
1906.....	209.....	All
1906.....	301.....	All
1906.....	342.....	All
1906.....	360.....	All
1906.....	517.....	All
1906.....	550.....	All
1906.....	559.....	All
1906.....	565.....	All
1906.....	597.....	All
1906.....	598.....	All
1906.....	609.....	All

Laws of	Chapter	Section
1906.....	611.....	All
1906.....	618.....	4
1906.....	635.....	All
1906.....	636.....	All
1906.....	638.....	All
1906.....	658.....	All
1906.....	659.....	All
1907.....	43.....	All
1907.....	134.....	All
1907.....	160.....	All
1907.....	167.....	All
1907.....	168.....	All
1907.....	269.....	All
1907.....	277.....	All
1907.....	278.....	All
1907.....	302.....	All
1907.....	303.....	All
1907.....	365.....	All
1907.....	372.....	All
1907.....	373.....	All
1907.....	383.....	All
1907.....	431.....	All
1907.....	432.....	All
1907.....	435.....	All
1907.....	439.....	All
1907.....	445.....	All
1907.....	450.....	All
1907.....	469.....	All
1907.....	516.....	All
1907.....	547.....	All
1907.....	598.....	All
1907.....	600.....	All
1907.....	601.....	All
1907.....	602.....	All
1907.....	611.....	All
1907.....	637.....	All
1907.....	639.....	All
1907.....	642.....	All
1907.....	644.....	All
1907.....	675.....	All
1907.....	677.....	All

Laws of	Chapter	Section
1907.....	678.....	All
1907.....	679.....	All
1907.....	680.....	All
1907.....	723.....	All
1907.....	748.....	All
1907.....	762.....	All
1907.....	763.....	All
1908.....	12.....	All
1908.....	64.....	All
1908.....	65.....	All
1908.....	83.....	All
1908.....	106.....	All
1908.....	134.....	All
1908.....	135.....	All
1908.....	142.....	All
1908.....	147.....	All
1908.....	242.....	All
1908.....	354.....	All
1908.....	355.....	All
1908.....	356.....	All
1908.....	357.....	All
1908.....	376.....	All
1908.....	377.....	All
1908.....	380.....	All
1908.....	381.....	All
1908.....	382.....	All
1908.....	401.....	All
1908.....	402.....	All
1908.....	447.....	All
1908.....	490.....	All
1909.....	328.....	All
1909.....	331.....	All
1909.....	342.....	All
1909.....	348.....	All
1909.....	377.....	All
1909.....	381.....	All
1909.....	388.....	All
1909.....	393.....	All
1909.....	394.....	All
1909.....	395.....	All
1909.....	397.....	All

Laws of	Chapter	Section
1909.....	398.....	All
1909.....	400.....	All
1909.....	505.....	All
1909.....	516.....	All
1909.....	526.....	All
1909.....	540.....	All
1909.....	559.....	All
1909.....	565.....	All
1909.....	566.....	All
1910.....	239.....	All
1910.....	245.....	All
1910.....	262.....	All
1910.....	267.....	All
1910.....	269.....	All
1910.....	330.....	All
1910.....	336.....	All
1910.....	456.....	All
1910.....	543.....	All
1910.....	544.....	All
1910.....	546.....	All
1910.....	547.....	All
1910.....	548.....	All
1910.....	550.....	All
1910.....	551.....	All
1910.....	553.....	All
1910.....	554.....	All
1910.....	654.....	All
1910.....	679.....	All
1910.....	681.....	All
1910.....	683.....	All
1910.....	702.....	All
1911.....	65.....	All
1911.....	69.....	All
1911.....	224.....	All
1911.....	301.....	All
1911.....	304.....	All
1911.....	392.....	All
1911.....	455.....	All
1911.....	456.....	All
1911.....	563.....	All
1911.....	607.....	All

(No. 32.)

**AN ACT to amend the election law in relation to nominations and primaries.**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The schedule of articles of chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," is hereby amended to read as follows:

- Article 1.** Short title; *application; definitions* (§§ 1-3).
2. **[Primaries; general provisions]** *Enrollment of voters* (§§ **[2-7]** 5-25).
3. **[Enrollments and primaries in cities and in villages having five thousand inhabitants or more]** *Party organization* (§§ **[20-74]** 35-45).
4. **[Enrollments and primaries in towns]** *Designation of candidates for party nominations* (§§ **[90-104]** 60-72).
5. **[Nominations]** *Conduct of primary elections; canvass of returns* (§§ **[120-137]** 90-123).
- 5-a. *Independent nominations* (§§ 134, 135).
- 5-b. *Filing certificates of nomination; publication* (§§ 136-146).
6. Registration of voters (§§ 150-184).
7. Boards of elections in cities of the first class containing one or more counties (§§ 190-201).
8. Commissioner of elections in the county of Erie (§§ 210-221).
9. Commissioner of elections in the county of Monroe (§§ 230-242).
10. Commissioner of elections in the county of Onondaga (§§ 250-260).
11. Commissioner of elections in the county of Westchester (§§ 270-281).
12. Time, places, notices, officers and expenses of elections (§§ 290-320).

**Article 13.** Ballots and stationery (§§ 330-345).

14. Conduct of elections and canvass of votes (§§ 350-381).

15. Voting machines (§§ 390-421).

16. Board of canvassers (§§ 430-444).

17. Representatives in congress and presidential electors (§§ 450-457).

18. Metropolitan elections district (§§ 470-[488]489).

19. Soldiers' and sailors' elections (§§ 500-522).

20. Corrupt practices (§§ 540-[561]562).

21. Laws repealed; when to take effect (§§ 570, 571).

§ 2. The schedule of sections to article one of the election law is hereby amended to read as follows:

## ARTICLE 1.

### SHORT TITLE; APPLICATION; DEFINITIONS.

**Section 1.** Short title.

2. *Application.*

3. *Definitions.*

§ 3. The election law is hereby amended by inserting in article one thereof two new sections, to be known as sections two and three, and to read as follows:

§ 2. *Application.* Except as otherwise herein provided, articles two, three, four, five, five-a and five-b of this chapter shall be controlling:

1. *On the method of electing members of party committees, and delegates and alternates to national party conventions.*

2. *On the organization and conduct of party committees.*

3. *On the method of enrolling the voters of a party.*

4. *On the nomination of all candidates for offices authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, except town, village and school district officers, and electors of the president and vice-president of the United States.*

§ 3. *The terms used in this chapter shall have the signification herein defined unless other meaning is clearly apparent from the language or context:*

1. The term "general election" means the election held on the Tuesday next succeeding the first Monday in November.

2. The term "enrollment books" means the registration books used for the purpose of registering the voters of each election district as provided for by section five of this chapter.

3. The term "official primary" or "official primary election" means a primary election held by a party for the purpose of nominating party candidates for offices described in, and not excepted by, subdivision four of section two of this chapter, or for the election of any member of a party committee constituted as provided in section four of this chapter, or for the election of delegates and alternates to a national party convention. An "unofficial primary" or an "unofficial primary election" means any other primary or primary election held by a party or independent body.

4. The term "primary day" means the day upon which an official primary election is held, as in this chapter provided.

5. The term "full primary" means the official primary election held in a year when a president and vice-president of the United States are to be elected on the eighth Tuesday before the general election, and in other years the official primary election held on the second Tuesday before the general election.

6. The term "spring primary" means the official primary election held on the last Tuesday in March in years when a president of the United States is to be elected.

7. The term "unit of representation" means any election district, town, ward of a city, assembly district or any other political subdivision of the state, respectively, which is the unit from which members of any political committee shall be elected as herein provided.

8. The term "custodian of primary records" means the officer or board whose duty it is by the provisions of this chapter to provide official ballots for general elections.

9. The term "party" means any political organization which at the last preceding election of a governor polled at least ten thousand votes for governor.

10. The term "nomination" means the selection in accordance with the provisions of this chapter of a candidate for office au-

*thorized to be filled at a general election or at a special election held to fill a vacancy in such office.*

11. *The term "designation" means any method in accordance with the provisions of this chapter by which candidates for party nominations, or for election as party committeemen or delegates, may be named in order that they may be placed upon the official ballot for any official primary election.*

12. *The term "official primary ballot" means the ballot prepared, printed and supplied for use at an official primary election in accordance with the provisions of this chapter.*

13. *The term "party position," means membership in a party committee or the position of delegate or alternate to a party convention.*

14. *The term "committee" means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political subdivision of the state.*

§ 4. *The schedule of sections to article two of the election law is hereby amended to read as follows:*

## ARTICLE 2.

### [PRIMARIES; GENERAL PROVISIONS] ENROLLMENT OF VOTERS.

Section [2. Definitions of primary and convention.]

[3. Notice of primary.]

[4. Organization and conduct of primaries.]

[5. Qualifications of voters at primaries.]

[6. Duties of chairman of primary.]

[7. Watchers and canvass of votes at primaries.]

5. *Registration and enrollment books.*

6. *Voting booths and enrollment boxes.*

7. *Enrollment blanks and envelopes.*

8. *Delivery of enrollment blanks to voters.*

9. *Enrollment by voters.*

10. *Examination, sealing and custody of enrollment boxes.*

11. *Opening of enrollment box and completion of enrollment.*



- Section 12.** *Special enrollment where personal registration is not required.*
13. *Special enrollment for annexed territory.*
14. *Special enrollment upon becoming of age.*
15. *Special enrollment after moving where personal registration is not required.*
16. *Special enrollment after moving in other cases.*
17. *Enrollment in the year nineteen hundred and eleven.*
18. *Duplicate enrollment lists.*
19. *Use of enrollment books at official primaries.*
20. *Right to enroll and vote at primaries.*
21. *New enrollment books for changed districts.*
22. *Enrollment books to be public records; transcripts of enrollment.*
23. *Publication of enrollment in cities of one million inhabitants.*
24. *Judicial review of enrollment in cities of one million inhabitants.*
25. *Correction of enrollment in cities of one million inhabitants, with respect to persons not in sympathy with party.*

§ 5. The section of the election law numbered section twenty-two and renumbered section five, as aforesaid, is hereby inserted as a part of article two of said law and is amended to read as follows:

§ [22.] 5. *Registration and enrollment books.* [The custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all voters of the election district may be inscribed therein alphabetically. Said books shall be delivered by the custodian of primary records to the election inspectors of the respective election districts immediately before the day of registration in each year.] *The registration books used for the purpose of registering the voters of such election districts furnished by the secretary of state, as provided by section one hundred and eighty-two of the election*

*law, shall be so arranged and printed that in addition to the columns prescribed for said registration books in sections one hundred and fifty-five and one hundred and fifty-six of the election law, there shall be to the left of the columns therein described eight additional columns as follows: The first column for the number on the ballot voted, in case the elector votes at the third official primary election of the year; the second for a record as to challenges in case he is challenged thereat; above these two columns shall be printed the words "third official primary;" the third and fourth columns for similar entries in case he votes at the second official primary election; above the third and fourth columns shall be printed the words "second official primary." The fifth and sixth columns for similar entries in case he votes at the first official primary election; above the fifth and sixth columns shall be printed the words "first official primary." The seventh column for the name of the party, if any, with which the elector shall enroll. The eighth column for the enrollment numbers of electors. Above these eight columns shall be printed the words "enrollment and primary section."*

§6. The section of the election law numbered section twenty-five and renumbered section six, as aforesaid, is hereby inserted as a part of article two thereof and is amended to read as follows:

§ [25.] 6. Voting booths and enrollment boxes. The custodian of primary records shall cause at least two voting booths of the same kind and description as voting booths used at general elections, to be erected in each place of registration *where personal registration is required*, before the first day of registration in each year, and such booths shall be and remain in said places of registration during the registration at the four regular meetings for registration during that year; and it shall be the duty of the custodian of primary records to furnish in each voting booth so erected the same articles as are required by law to be placed therein for a general election, which articles shall remain therein during such registration. He shall also provide in like manner one enrollment box in each place of registration of sufficient capacity to hold all the enrollment blanks and envelopes which are to be furnished for such place of registration, which shall be similar to the ballot boxes prescribed by law to be used at a

general election. *He shall also in like manner provide at each polling place on general election day, in election districts in which personal registration is not required, two such voting booths, for the enrollment of voters, the needed articles therefor, and an enrollment box, as above provided.*

§ 7. The section of the election law numbered section twenty-six and renumbered section seven, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [26] 7. Enrollment blanks and envelopes. There shall also be prepared and distributed by the custodian of primary records in the manner and at public expense as provided in this chapter for the furnishing of official ballots, such a number of enrollment blanks and envelopes for each election district [to the primary elections of which this article is applicable], as will exceed by two hundred the total number of voters registered in such district at the last preceding general election. The enrollment blanks shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks to be filled in in type so far as possible:

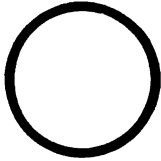
"Primary enrollment for the year .....; city (or village or town) of .....; county of .....; ..... assembly district (or ward); ..... election district; enrollment number .....; name of voter .....

"I, ....., who have placed a mark underneath the party emblem hereunder of my choice, do solemnly declare that I have this day registered as a voter for the next ensuing election, (or, in election districts in which personal registration is not required, that I have this day voted in the above election district) and that I am a qualified voter of the election district in which I have so registered (or voted) and that my residence address is as stated by me at the time I so registered (or, in election districts in which personal registration is not required, a statement of the voter's present address); that I am in general sympathy with the principles of the party which I have designated by my mark hereunder; that it is my intention to support generally at the next general election, state or national, the

nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last [year] *January*. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor.

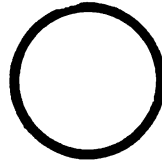
.....Party.

(Insert emblem.)



.....Party.

(Insert emblem.)



"Make a cross X mark, with a pencil having black lead, in the circle under the emblem of the party with which you wish to enroll, for the purpose of participating in its primary elections during the next year."

The circles underneath the emblems shall be one inch in diameter, and in them nothing shall be printed. The party emblems shall be the same as those which were on the ballots for each party, respectively, at the last preceding general election, and such emblems shall be so arranged on each blank that the emblem of the majority party at the last preceding general election of a governor shall be first, and the other emblems shall follow in order in accordance with the vote cast for such office at such election; over each emblem shall be printed, in type clearly legible, the name of the party represented by such emblem. The enrollment blanks shall have thereupon only the emblems of those parties to which this article is applicable and shall be distributed inclosed within the enrollment envelopes having corresponding enrollment numbers. The enrollment envelopes shall be of such size as to permit inclosure therein, without folding, of the enrollment blank, and of such weight and texture of paper as to make it impossible to read or decipher the printed matter on the blank when the same is sealed on the inside thereof. Nothing shall be printed or written upon the enrollment envelopes, except the following words, or the substance thereof, blanks to be filled in in type as far as possible:

"Primary enrollment for year .....; city (or village) of .....; county of .....; ..... assembly district (or ward); ..... election district."

§ 8. The section of the election law numbered section twenty-seven and renumbered section eight, as aforesaid, is hereby inserted as a part of article two thereof and is amended to read as follows:

§ [27] 8. Delivery of enrollment blanks to voters. 1. *Where personal registration is required.* When in any city or village [to which this article is applicable] *in which personal registration is required*, a voter shall, at any of the four regular meetings for registration in any year, present himself to the board of election inspectors in any election district[, his name and residence address shall be entered at the proper place in the two original enrollment books for that district] *and* after he shall have been registered as a qualified voter of that election district for the next ensuing general election, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the place of registration, enter his [registration] *enrollment* number, beginning with number one for the first voter registered on the first day, and so on in numerical order, opposite his name, in the [first] *eighth* column of the registration [books and the enrollment] books, and shall write the name of the voter on the blank having the number which shall be opposite his name on the registration books, and shall fill the other blank spaces on the enrollment envelope and blank, and shall deliver to such voter the enrollment envelope and blank having his name on it. No voter shall be given more than two sets of enrollment blanks and envelopes in any event, nor more than one set unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him, the member of the board of election inspectors in charge of the enrollment books shall draw a line through such voter's enrollment number in the [first] *eighth* column in said [books, and of the] registration books, and shall insert in such space in said columns the number which shall be upon the new set to be given him, which number shall always be the lowest number of enrollment blanks and envelopes then unused in such [booth] *election district*. *If an election district comprises*

*territory partly within and partly outside of a village in which personal registration is required the procedure specified in this section shall be followed only in respect to voters residing in such village, and at the close of the enrollment the unused blanks and envelopes shall be sealed and delivered to the custodian of primary records at the time of the delivery of the books and records.*

2. *Where personal registration is not required. When, in any town or village in which personal registration is not required, or in an election district a part of which comprises territory in which personal registration is not required, a voter who was not required to register personally shall present himself to the board of election inspectors in any election district for the purpose of receiving an official ballot to be voted thereat, his name and residence shall be entered at the proper place in the original registration and enrollment books for that district. After he shall have voted, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the polling place write his name on the enrollment blank and envelope having the lowest number of the blanks then unused in such election district, shall fill in the other blank spaces on such enrollment blank and envelope, deliver to him the enrollment envelope and the blank having his name on it, and enter opposite his name in the enrollment books the number on the blanks delivered to him. No voter shall be given more than two sets of blanks and envelopes in any event, nor more than one set, unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him the member of the board of election inspectors in charge of the enrollment book shall draw a line through such voter's enrollment number in the first column in said books, and shall insert in such space in such column the number which shall be upon the new set to be given him, which number shall also be the lowest number on the enrollment blanks then unused in such election district. Enrollment blanks shall be numbered consecutively, from one upwards, except that in districts where the enrollment as to part of the voters occurred, as provided in the preceding section, on registration days the first number shall be the one succeeding the last number used at such prior enrollment.*

§ 9. The section of the election law numbered section twenty-eight and renumbered section nine, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [28] 9. Enrollment by voters. Such voter desiring to enroll shall then enter a voting booth in said place of registration or *polling place*, and, after having closed the door thereof, may make a cross X mark with a pencil having black lead in the circle underneath the emblem of the party of his selection and thereupon inclose said enrollment blank in said envelope and seal the same, and, before leaving the place of registration or *polling place*, shall forthwith deposit the same in the enrollment box in said place of registration or *polling place* in the presence of the inspectors of election, without in any way indicating the party with which he has or has not enrolled [and the inspectors shall thereupon enter in the enrollment books in the fifth column thereof the word "yes "]. If a voter declines to enroll, he may return the blank and envelope to the inspector in charge of the enrollment box, and such inspector shall seal said envelope with the blank therein, indorse the name of such voter thereon and deposit the same in the enrollment box. [; and a like entry shall be made opposite his name in the fifth column of the enrollment books. The entries in the enrollment books required by this and the preceeding section shall be made by a member of the board designated by the chairman.] One mark crossing another mark at any angle within the circle shall be deemed a cross mark within the meaning of this article.

§ 10. The section of the election law numbered section twenty-nine and renumbered section ten, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [29] 10. Examination, sealing and custody of enrollment boxes. Before any voter shall be registered in any year, the said enrollment box shall be examined by the board of election inspectors and when empty shall be locked and sealed by them in such a manner that should it be opened such seal would be broken; and the same shall remain locked and sealed until the same shall be opened by the custodian of primary records [after the next ensuing general election] as hereinafter provided. Said boxes shall be in the charge and keeping of the custodian of primary records

at all times except during [the] hours of [registration as prescribed by law] *enrollment*.

§ 11. The section of the election law numbered section thirty-one and renumbered section eleven, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [31] 11. Opening of enrollment box and completion of enrollment. It shall be the duty of the board of primary inspectors, or one of them, [after the final meeting for registration in each year, and] at the same time that he delivers the registration books, to deliver the enrollment box to the custodian of primary records. All enrollment envelopes contained therein shall remain in such box, and the said box shall not be opened nor shall any of the envelopes be opened or removed therefrom until the Tuesday following the [next succeeding] day of general election *in that year*. Such box shall then be opened by the custodian of primary records, and the envelopes contained therein shall be removed therefrom and opened by said custodian, and the name of the party designated by each voter under such declaration shall be by said custodian entered against the name of such voter in the [sixth] *seventh* column of the [enrollment] *registration* books for the election district in which such voter resides. Such enrollment shall be completed before the succeeding fifteenth day of February in each year. If cross marks are found in more than one of the circles, or if no cross marks are found in any of the circles, on any enrollment blank, the voter who used the enrollment blank thus deficient shall not be deemed to be enrolled, and words indicating the reason why such enrollment is not transcribed shall be entered in said [sixth] *seventh* column of the [enrollment] *registration* books against the name of such voter. When all of the enrollments shall be transcribed from the blanks to the enrollment books, the custodian of primary records shall subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original [enrollment] *registration* books, which declaration shall be to the effect that he has correctly and properly transcribed the enrollment indicated on the blank of each voter to the [enrollment] *registration* books, as herein provided.

§ 12. The section of the election law numbered section thirty-two and renumbered section twelve, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:



§ [32] 12. Special enrollment *where personal registration is not required.* At any time during the months of May and June, and also in the month of February of any year in which a president of the United States is to be elected, any voter who was registered as a voter *in an election district where personal registration is not required* [at one of said four meetings for registration] in the preceding year, but who did not [then] enroll with any party *on the day of the general election,* may, [except in cities of the first and second class and cities of the third class to which this article is made applicable pursuant to section seventy-three,] become specially enrolled in and have his name added to the original enrollment books of any party in the election district in which he then resides and still resides, in the manner following:

He shall make, and acknowledge before an inspector of election in the election district in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and file or cause to be filed with the custodian of primary records a statement embodying a declaration in the following form:

"I (naming the voter), do solemnly declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district or ward in the [city] town (or village) of (naming it); that [at one of the last four preceding days of registration] I was registered as a voter in the said election district, but did not enroll *on the day of the general election,* and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor."

Upon the filing of such statement, the custodian of primary records shall enroll such voter in the original *registration and enrollment* books for the proper election district and shall record, in the proper columns thereof, the name and residence address of such voter, the election district in which he is registered as a voter, the name of the party designated in such statement, [the number opposite his name on the registration book,] the fact that the voter is specially enrolled, and the date of such special enrollment.

§ 13. The section of the election law numbered section thirty-three and renumbered section thirteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [33] 13. Special enrollment for annexed territory. If subsequent to any general election and prior to the first day of July next ensuing, territory [to which this article is not applicable] *in which personal registration is not required* shall have become incorporated with a city or village [to which it shall then be applicable], *in which personal registration is required*, any voter residing in such annexed territory may become enrolled in and have his name added to the original enrollment books of any party for the election district in which he resides, at the time and in the manner [provided in section thirty-two of this article. Nothing in this and the last section contained, giving the right to specially enroll as a member of a party, shall apply to cities of the first and second class and cities of the third class to which this article is made applicable pursuant to section seventy-three, and in such cities no voter shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration, as provided in section twenty-seven and section twenty-eight of this article, or in cities containing a population of more than three hundred thousand and less than a million and in cities of the third class to which this article is made applicable pursuant to section seventy-three as provided in section thirty-four and section thirty-five of this article.] *following:*

*He shall make, subscribe and acknowledge before an inspector of election in the election district in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be*

*recorded in this state, and file or cause to be filed with the custodian of primary records a statement embodying a declaration in the following form:*

*I (naming the voter), do solemnly declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district (or ward) in the city (or village) of (naming it); that at the last general election I was entitled to vote in said election district, and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next election, state or national, the nominees of such party for state or national offices and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor."*

*Upon the filing of such statement, the custodian of primary records shall enroll such voter in the original enrollment books for the proper election district and shall record, in the proper columns thereof, the name and residence address of such voter, the election district in which he is registered as a voter, the name of the party designated in such statement, the number opposite his name on the registration book, the fact that the voter is specially enrolled, and the date of such special enrollment.*

§ 14. The section of the election law numbered section thirty-four and renumbered section fourteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [34] 14. Special enrollment upon becoming of age. Except in cities containing a population of not less than fifty thousand and not more than three hundred thousand, and cities containing a population of one million or over, a voter who shall have become of age after the last preceding general election may at any time other than during the thirty days next preceding an official primary day, become specially enrolled in and have his name added to the original enrollment books of any party in the election district in which he resides, in the manner following:

He shall make, and acknowledge before one of the officers authorized by sections [thirty-two] *twelve and thirteen* to take *such* acknowledgments, and file or cause to be filed with the custodian of primary records, a statement embodying the declaration contained in [that] *those* sections, except that instead of the words indicating that the voter was [registered at one of the last four preceding days of registration but did not enroll] *entitled to vote at the last preceding general election*, words indicating that he has become of age since the last preceding general election shall be used.

Upon the filing of such statement, the custodian of primary records shall enroll such voter in the original enrollment books for the proper election district, and shall record in the proper columns thereof the name and residence address of such voter, the fact that he has become specially enrolled, the date of such special enrollment, and the fact that he has become of age since the last preceding general election. Nothing in this section contained giving to voters who shall have become of age after the last preceding general election the right to specially enroll, shall apply to cities containing a population of not less than fifty thousand and not more than three hundred thousand, or cities containing a population of one million or over, and in such cities no voter shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration [as provided in section twenty-seven and section twenty-eight of this article].

§ 15. The section of the election law numbered section ninety-six and renumbered section fifteen, as aforesaid, is hereby inserted as a part of article two thereof and amended to read as follows:

§ [96] 15. Special enrollment after moving, *where personal registration is not required*. If after being enrolled, *where personal registration is not required*, as a member of a party in one election district, either by original enrollment or by transfer, a voter shall move into another election district *where personal registration is not required* in said county, he may at any time between the first days of January of any year and the thirtieth day before any primary [election day], become enrolled therein as a member of the same party, by making, acknowledging and filing or causing to be filed with the [county clerk] *custodian*

*of primary records* a statement specifying the name of the party with which, and the election district in which, he is enrolled, and the election district into which he has removed, and stating that he resides in the last mentioned election district and desires to be enrolled therein as a member of such party. Upon the filing of such statement, the said [county clerk] *custodian* shall enroll the name of such voter in the enrollment [list] *books* filed with him for the proper election district, specifying the district from which he is transferred, and shall also make a minute, opposite the entry of his name, in the enrollment [list] *books* filed with him of the election district from which he has removed, showing the election district to which his name is transferred.

§ 16. The section of the election law numbered section thirty-five and renumbered section sixteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [35] 16. Special enrollment after moving, *in other cases*. If, after being enrolled as a member of a party in one election district, either by original enrollment or by transfer, a voter shall move into another election district in the same city or village *in which personal registration is required*, he may, except in cities containing a population of not less than fifty thousand and not more than three hundred thousand, and cities containing a population of one million or over and cities of the second class; at any time between the first day of February of any year and the thirtieth day before [the annual] primary day, except during the thirty days before the [official] *spring* primary [day in March] as herein provided, become enrolled therein as a member of the same party by making, acknowledging before one of the officers authorized by sections [thirty-two] *twelve and thirteen to take such acknowledgments*, and filing, or causing to be filed, with the custodian of primary records, a statement specifying the name of the party with which, and the election district in which he is enrolled, and the election district into which he has moved, and stating that he resides in the last mentioned election district, and desires to be enrolled therein as a member of such party. Upon the filing of such statement the custodian of primary records shall

enroll the name of such voter in the original enrollment books for the proper election district, specifying the district from which he is transferred, and shall also make a minute, opposite the entry of his name in the original books of the election district to which his name is transferred. Nothing in this [subdivision] section contained giving the right of transfer, as herein stated shall apply to cities containing a population of not less than fifty thousand and not more than three hundred thousand, or cities containing a population of one million or over, and in such cities no voter shall be permitted to take part in any primary election of any party other than the party with which and in the election district in which he enrolled at one of the four regular meetings for registration [as provided in section twenty-seven and section twenty-eight of this article].

§ 17. The election law is hereby amended by inserting therein a new section, to be known as section seventeen, and to read as follows:

§ 17. *Enrollment in the year nineteen hundred and twelve. In each election district of the state where no enrollment of the members of political parties was required to be made in accordance with the provisions of the election law in the year nineteen hundred and ten, the boards of primary inspectors shall meet in their election districts respectively from twelve o'clock noon until nine o'clock in the evening on the seventeenth day of July, nineteen hundred and twelve, and the twentieth day of July, nineteen hundred and twelve, for the purpose of making such enrollment. The members of said boards shall receive the same compensation as for a day of registration, and such compensation shall be paid to them by the same officials and in the same manner as for a day of registration. Such boards of primary inspectors at such meetings shall make an enrollment of party voters in the manner herein prescribed. In the election districts where there has been no party enrollment they shall place upon the appropriate enrollment lists the names of all voters whose party affiliation is known to them or may be made known to them, in the manner prescribed in this chapter, either by the voter in person or by an enrolled voter of the same party residing within the district. When the name of a party voter has been placed upon an enrollment list it*

shall not be placed upon any other enrollment list. At the conclusion of such enrollment on the twentieth day of July the said boards of election inspectors shall cause to be mailed to their several post-office addresses enrollment blanks to all voters whose names appear upon the registration books, but not upon the enrollment lists. Such blanks shall be printed and shall be in substantially the same form as the blanks prescribed in this chapter for the enrollment of voters on days of registration in election districts where personal registration is required. And across the top thereof shall also be printed the following instruction: "Fill out and return on or before the twenty-fourth day of July, nineteen hundred and twelve, to . . . . ., chairman board of primary inspectors, town of . . . . ., or . . . . . election district, . . . . . (here insert the number of the assembly district or ward or the name of the town or village, if any) at . . . . . (here insert the post-office address, with street and number, if any, of chairman of the board of primary inspectors)." The names of enrolled voters contained in such blanks as shall be mailed on or before the twenty-fourth day of July, nineteen hundred and eleven, and received by the chairman of the board of primary inspectors, shall be added to the respective lists. The names of party voters thus enrolled shall be arranged alphabetically upon the enrollment lists of their parties respectively, and such enrollment lists on and after the first day of August, nineteen hundred and twelve, shall become the enrollment lists for the primary elections to be held in the year nineteen hundred and eleven, and shall be subject to the provisions of this chapter applying to enrollment lists of party voters. The enrollment books and blanks for the enrollment of party voters, required by this chapter to be printed by the custodian of primary records, shall be furnished in the year nineteen hundred and eleven on or before the tenth day of July of said year.

§ 18. The section of the election law numbered section thirty-six and renumbered section eighteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [36] 18. Duplicate enrollment [books] lists. The custodian of primary records shall annually provide a true copy [of

the enrollment books], duly certified, for each party to which this article shall then be applicable, [provided that in cities containing a population of one million or over and in cities containing a population of not less than fifty thousand and not more than three hundred thousand such copies shall be only] of so much of the said registration and enrollment books as will give their names, addresses and political affiliation of each voter, and the certificate attached to each said copy, shall be qualified to meet the requirements of this proviso. The said custodian shall, in the month of February of each year, deliver one such certified copy to the chairman of the proper [general] county committee of each such party. Such certified copies shall conform in all respects to the form of the *enrollment and primary section of the original registration and enrollment books*, or to the portion transcribed, as the case may be, and all entries in such original enrollment books, completed to February fifteenth when such books are prepared for election districts [outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over,] shall be transferred thereto. The custodian of primary records shall, whenever requested so to do by the chairman of the proper [general] county committee of any party to which this article is applicable and upon the delivery to him of that party's certified copy of the enrollment books for any election district, [of a city or village] other than in a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over make such additions thereto and changes therein as may be necessary to cause the same to conform to the original enrollment books of that election district, completed to the fifteenth day of the month during which such request is made, and shall, as promptly as possible, return the same to such chairman or his duly authorized representative, accompanied by a supplemental certificate showing that each such copy is a correct copy of the original as of such date. The custodian of primary records within a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over shall certify to such



chairman that each such copy is a correct transcript of the original enrollment book, made during the four days of registration of voters for the preceding general election. *The custodian of primary records, except in a county wholly within a city, shall annually, upon the completion of the entry of the enrollment upon the registration enrollment books, prepare for each town within his jurisdiction a true copy of so much of a registration and enrollment book as gives the names, addresses and political affiliations of such voter in such town. Such copy shall be duly certified and transmitted to the town clerk of such town on or before the twentieth day of February. The custodian of primary records shall also on the first day of each month thereafter prior to the first day of October transmit to the town clerk of each town within his jurisdiction a certified statement of all supplemental enrollments of voters in such town during the preceding month. Such certified copy and each such certified statement shall be filed by the town clerk in his office, and shall be open to public inspection at all reasonable hours.*

§ 19. The section of the election law numbered section thirty-eight and renumbered section nineteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [38] 19. Use of original *registration and enrollment books* at official primaries. The original enrollment books shall be used at all official primary elections, and shall be delivered by the custodian of primary records to the proper boards of election inspectors immediately before the opening of the polls on each official primary day, and shall be returned to such custodian forthwith, after the completion of the canvass of the votes. [Such] The enrollment [books] shall go into effect on the [first] *sixteenth* day of [January] *February* following the day[s of registration] on which [they] the original registration books are required to be delivered to the custodian of primary records [begun] and [shall] such enrollment with any additions or changes made as herein provided, remain in force until the [first] *sixteenth* day of the following [January] *February*, when [they] it shall be superseded by the new enrollment [books] as herein provided.

§ 20. The section of the election law numbered section thirty-nine and renumbered section twenty, as aforesaid, is hereby in-

serted as a part of article two thereof, and is amended to read as follows:

§ [39] 20. Right to enroll and vote at primaries. No voter who has once enrolled in a political party shall be permitted to enroll in another political party before the first of the next four days of registration. [Except as otherwise expressly provided in this article,] Only voters enrolled as [herein] provided in this article shall be entitled to participate in the *official* primary elections of their respective parties. [No voter who has registered in the preceding year shall be allowed to enroll in any election district other than that in which he was so registered, unless the custodian of primary records shall find that he was so registered in such other election district. No voter shall take part in any primary election of any party other than the party in which he shall at the time be enrolled.]

§ 21. The section of the election law numbered section forty and renumbered section twenty-one, as aforesaid, is hereby inserted in article two thereof, and is amended to read as follows:

§ [40] 21. New enrollment books for changed districts. In case, in the interval between the day[s of registration] of *general election* and an official primary day in the succeeding year, a new election district shall be created, or the boundaries of an election district, or the number of any ward or assembly district, shall be changed, the custodian of primary records shall, at least thirty days prior to such official primary day, prepare [two] new *registration and enrollment* books for such district, or properly renumbered the *registration and enrollment* books for such ward or assembly district, which *registration and enrollment* books shall be in the same form and exhibit the same facts as the *registration and enrollment* books then in force in the territory comprised within such new or changed district, or renumbered ward or assembly district, but shall contain only the names of all the voters, who as shown by the *registration and enrollment* books then in force in such territory are the enrolled voters of the respective political parties resident within such new or changed election district, or renumbered ward or assembly district. And in that event such new *registration and enrollment* books shall supersede the *registration and enrollment* books then in force in such territory,

and the custodian of primary records shall be charged with the same duties concerning the same and any duplicate sets thereof or transcripts therefrom as are herein provided for with respect to the *original registration and enrollment books*. [begun on the day of registration.]

§ 22. The section of the election law numbered section forty-one and renumbered section twenty-two, as aforesaid, is hereby inserted in article two thereof, and is amended to read as follows:

§ [41] 22. *Registration and enrollment books* to be public records; transcripts of enrollment. The *registration and enrollment books* herein provided for and any declarations filed on enrollment shall be public records, and shall be open to inspection and copying at any time by any person, except for the period during which they are required to remain sealed as herein provided. It shall be the duty of the custodian of primary records to certify to the correctness of any transcript of such *registration and enrollment books*, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript. Wherever the custodian of primary records is a salaried officer, the fees received by him for certifying such transcripts shall be paid into the public treasury. Such a certified transcript containing the name and showing the enrollment of any voter, shall be sufficient evidence of such enrollment. The custodian of primary records shall give to any voter enrolled or transferred as in this article provided, a certificate of enrollment or of transfer, which shall specify the name of the party with which he is enrolled, the date of enrollment or transfer, and the election district in which such voter is enrolled. The declarations and enrollment blanks filed by voters [at the time of registration or in the special enrollment] shall be public records and shall be kept on file until one year thereafter. No person shall be required to enroll, nor shall his failure to do so affect his right to register for the purpose of voting at any election.

§ 23. The section of the election law numbered section forty-two and renumbered section twenty-three, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [42] 23. Publication of enrollment in *certain cities* [of one million inhabitants]. In a city containing a population of

one million or over, and in cities containing a population of not less than fifty thousand and not more than three hundred thousand, the public officer or board at the time charged with the duty of publishing the registration lists of voters in such city shall, between the fifteenth day of December and the [first] fifteenth day of [January] February, cause to be published in like manner and at public expense a transcript of the registration and enrollment books of each election district in such city, omitting all entries except the names, the residence addresses, and the party, if any, recorded opposite the respective names. The custodian of primary records shall provide such transcript for publication.

§ 24. The section of the election law numbered section forty-three and renumbered section twenty-four, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [43] 24. Judicial review of enrollment in cities of one million inhabitants. This section shall apply only to cities containing a population of one million or over. If any statement in the declaration of any person, on the evidence of which his name was enrolled in the original enrollment book for any election district by the custodian of primary records, or if any entry opposite the name of any person in such enrollment book is false, or if any person enrolled in such enrollment book has died, or has removed from or no longer resides in such election district, any voter of the assembly district in which such election district is located [provided such voter is himself duly enrolled with the same political party with which the person, as to whom the application is made, was enrolled] may present proof thereof by affidavit to the supreme court, or to any justice thereof, in the judicial district, or to a county judge of the county, in which such election district is located. And thereupon such court, justice or judge shall make an order requiring the person against or as to whom the proceeding is instituted, unless he is shown to have died, as hereinafter provided, to show cause before such court, justice or judge at a time and place specified in such order, why his name should not be stricken from such enrollment book. Such order shall be returnable on a day at least ten days before a primary election, and a copy thereof shall be served on the person against whom

the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof, either personally or by depositing the same in the postoffice of the city in which such election district is located, in a postpaid wrapper or envelope addressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment book for such election district. If the person as to whose name the application is made is claimed to be dead, the order to show cause hereinabove provided for shall be directed to the custodian of primary records, and service thereof need only be made upon such custodian of primary records, such service to be made in the manner heretofore in this section specified; but an order requiring the custodian of primary records to show cause why the name of a person claimed to be dead should not be stricken from the enrollment book shall not be made unless the affidavit presented to the court, justice or judge by the voter instituting the proceeding shall state that such voter has personal knowledge of the death of the person with respect to whose name the application is made and unless such affidavit is substantiated either by a certificate of the health department or by other competent evidence of such death. The custodian of primary records shall produce before the court, justice or judge, the original enrollment declaration subscribed by the person against or as to whom the proceeding is instituted. The court, justice or judge shall hear the person interested, and if it appears by sufficient evidence that any statement in the declaration of the person against whom the proceeding is instituted, on the evidence of which he was enrolled by the custodian of primary records, or any statement opposite his name in the original enrollment book, is false, or that such person is dead or has removed from or no longer resides in the election district for which he is enrolled, shall order the name of such person stricken from the enrollment book, except as hereinafter provided. If at such hearing the person against whom the proceeding is instituted shall produce evidence that the custodian of primary records has incorrectly copied into the enrollment book the date contained in the declaration of such person, and that if correctly copied such person would be entitled to be enrolled in such

election district, such order, instead of requiring his name to be stricken from the enrollment book, shall require the correction of the enrollment book in accordance with such evidence. In either case the order shall require the custodian of primary records to strike such name from the enrollment book, or to otherwise correct such enrollment book in accordance with such order. Upon the correction of such enrollment book in accordance with such order, the custodian of primary records shall certify such correction to the chairman of the [general] county committee of each party to whom a duplicate set of enrollment [books] lists has been delivered in pursuance of section [thirty-six] eighteen of this [article] chapter.

§ 25. The section of the election law numbered section forty-four and renumbered section twenty-five, as aforesaid is hereby inserted in article two thereof, and is amended to read as follows:

§ [44] 25. Correction of enrollment in cities of one million inhabitants with respect to persons not in sympathy with party. This section shall apply only to cities containing a population of one million or over. If any person is not in sympathy with the principles of the political party with which such person is enrolled, any voter of the assembly district in which such election district is located [provided such voter is himself duly enrolled with the same political party with which the person as to whom the application is made was enrolled] may present proof thereof by affidavit to the chairman of the county [general] committee of the political party with which the voter enrolled, and the chairman of such county [general] committee shall issue a notice requiring the person against or as to whom the proceeding is instituted to show cause before such chairman of the county [general] committee, or a subcommittee appointed by such chairman, at a time and place specified in such notice why his name should not be stricken from such enrollment book. Such notice shall be returnable on a day at least fifteen days before a primary election, and a copy of the affidavit shall be served on the person against whom the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof, either personally or by depositing the same in the post-office of the city in which such election district is located, in a postpaid wrapper or envelope ad-

dressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment book for such election district. The chairman of such committee shall in his discretion personally hear the persons interested in the proceeding or appoint a subcommittee to take testimony, and in such event the action of the subcommittee shall not be final unless approved of by the chairman of such county [general] committee, and if it appears by sufficient evidence that such person is not in sympathy with the principles of the political party with which such person enrolled, the chairman of the county [general] committee shall cause to be filed a certificate with the board of elections or with the custodian of primary records setting forth reasons why the name of such person shall be stricken from the enrollment book, together with a record of the proceedings had in the matter. It shall be the duty of the board of elections or the custodian of primary records to make application to the supreme court or any justice thereof in the judicial district, or to a county judge of the county, in which such election district is located, for an order requiring the person against or as to whom the proceeding is instituted to show cause before such court, justice or judge, at a time and place specified in such order, why the decision of the chairman of such county [general] committee should not be confirmed. Such order shall be returnable on a day at least five days before a primary election, and a copy thereof shall be served on the person against whom the proceeding is instituted at least forty-eight hours before the return thereof in the manner hereinbefore provided. *The said court, justice or judge shall have power to examine fully into the proceedings taken before such chairman or subcommittee and to receive affidavits or other evidence as to the manner in which such proceedings were conducted and shall determine whether or not said proceeding was fairly conducted and the finding made therein was made upon sufficient grounds upon the merits, and he may approve or disapprove such finding as shall seem to him to be required to do substantial justice to the party against whom the proceeding was instituted and without regard to technical requirements.* The court, justice or judge upon approving of the finding of the chairman of such county [general] committee shall issue

an order to the board of elections or to the custodian of primary records requiring the name of the voter to be stricken from the enrollment book.

§ 26. The schedule of sections to article three of the election law is hereby amended to read as follows:

### ARTICLE 3.

**[ENROLLMENTS AND PRIMARIES IN CITIES AND IN VILLAGES HAVING FIVE THOUSAND INHABITANTS OR MORE] PARTY ORGANIZATION.**

Section **[20.** Application of article.

21. Definitions and construction.
22. Enrollment books.
23. Enrollment books except in cities of one million inhabitants and of second class.
24. Enrollment books in cities of one million inhabitants and of second class.
25. Voting booths and enrollment boxes.
26. Enrollment blanks and envelopes.
27. Delivery of enrollment blanks to voters.
28. Enrollment by voters.
29. Examination, sealing and custody of enrollment boxes.
30. Certification and secrecy of enrollment.
31. Opening of enrollment box and completion of enrollment.
32. Special enrollment.
33. Special enrollment for annexed territory.
34. Special enrollment upon becoming of age.
35. Special enrollment after moving.
36. Duplicate enrollment books.
37. Use of duplicate enrollment books at unofficial primaries.
38. Use of original enrollment books at official primaries.
39. Right to enroll and vote at primaries.
40. New enrollment books for changed districts.
41. Enrollment books to be public records; transcripts of enrollment.



- Section** 42. Publication of enrollment in cities of one million inhabitants.
43. Judicial review of enrollment in cities of one million inhabitants.
44. Correction of enrollment in cities of one million inhabitants, with respect to persons not in sympathy with party.
45. Times and purposes of official primaries.
46. Congressional primaries, and additional primaries in presidential years.
47. Expense of official primaries.
48. Primary districts and polling places.
49. Notice of primaries; hours of voting.
50. Unofficial primaries.
51. Restrictions as to place of primaries.
52. Primary election officers.
53. Appointment and removal of primary election officers.
54. Chairman; compensation of inspectors; oath.
55. Ballots, booth and supplies.
56. Voting at official primary elections.
57. Challenges at official primary elections.
58. Persons within guard-rail.
59. Watchers; challengers; electioneering.
60. Canvass of votes.
61. Proclamation and statement of result.
62. Certificates of election; preservation of ballots.
63. Canvass of statements of result.
64. Committees, and rules and regulations of parties.
65. Organization of committees and adoption of rules.
66. Conventions; apportionment of delegates.
67. Organization of conventions.
68. Contested seats.
69. Substitution of delegates; date of convention.
70. Jurisdiction of, and review by, the courts.
71. Direct nomination of candidates at primary elections.
72. Application of this article to political parties.

Section 73. Application of this article to cities of the third class and villages.

74. Perjury.】

35. *Party committees.*

36. *Terms of office.*

37. *Party rules and regulations.*

38. *Vacancies.*

39. *Meetings of committees.*

40. *Quorum.*

41. *Designation of candidates for party committeemen.*

42. *Party council.*

43. *Emblems.*

44. *Conflict in names or emblems.*

45. *Supplying omitted emblems.*

§ 27. The election law is hereby amended by inserting in article three thereof eight new sections, to be known as sections thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one and forty-two, and to read as follows:

§ 35. *Party committees.* The organization of parties shall consist of the following committees:

1. *State committee.* The state committee of said party shall be constituted by the election from each assembly district of one member who shall be an enrolled voter of the party within said district. Each member of the state committee shall be entitled to one vote for his unit of representation, and to one additional vote for each one thousand votes or major fraction thereof cast within said unit of representation for the candidate of his party for governor at the preceding general election.

2. *County committee.* (a) The county committee of said party, in each county in which a total of two hundred thousand or more votes was cast for governor in the proceeding election, shall be constituted by the election from each election district within said county of one member who shall be an enrolled voter of the party residing in said county.

In any such county the executive committee of the party shall be constituted by the election of one member thereof from each assembly district within said county who shall be an enrolled

voter of the party in said assembly district. Each member of said executive committee shall be entitled to as many votes in said executive committee as the members of the county committee, exclusive of said executive committeeman, elected within said assembly district are entitled to cast in the county committee. The members of said executive committee shall also be members of the county committee and shall each be entitled to one vote in the county committee, and shall have such powers and perform such duties as the rules of the county committee may prescribe, not inconsistent with the provisions of this chapter.

(b) In every other county the county committee of said party shall be constituted by the election from each ward of a city and each town, or from each election district, within said county as the rules of said county committee shall prescribe, of one member who shall be an enrolled voter of the party within such town or ward or election district. In the year nineteen hundred and eleven, such rules may be adopted before the fifteenth day of July by the county committee then existing.

(c) Each member of a county committee, excepting executive committeeman, shall be entitled to one vote, and to one additional vote for each hundred votes, or major fraction thereof cast within his unit of representation for the candidate of his party for governor at the preceding general election.

3. Assembly district committee. (a) The assembly district committee of said party in each county in which a total of two hundred thousand or more votes was cast for governor in the preceding election shall be constituted by the election of one member thereof from each election district within the assembly district; and if the votes cast in said election district for the candidate of the party for governor at the preceding election exceeded fifty and if the county committee of the county containing said assembly district shall so provide by rule, there may be one additional member of said assembly district committee elected from each election district for not less than each fifty votes or major fraction thereof of said excess. Each member of said committee shall be an enrolled voter of the party in the assembly district from which he is elected, as aforesaid. Each election district shall be entitled to at least one vote in said committee, and if the vote cast in an election

*district for the candidate of the party for governor at the preceding election exceeded fifty, it shall be entitled to an additional vote for each fifty votes or major fraction thereof of said excess; and if there shall be more than one member of said committee from an election district, each member shall be entitled to cast an equal share of the vote to which said election district is entitled as aforesaid.*

*(b) In every other county the assembly district committees respectively shall consist of the members of the county committees constituted as aforesaid, who shall reside within the respective assembly districts. The members of said assembly district committee shall be entitled to cast the same vote therein that they are entitled to cast in their respective county committees.*

*4. City committee. (a) In a city containing over one million inhabitants the city committee of each party shall consist of the members of the executive committees of the party elected within the counties having such executive committees, and, in addition, of one member from each assembly district within the other counties whose territory is wholly within the limits of said city. Said additional members shall be enrolled voters of the party in said assembly districts respectively, and shall be elected therefrom as city committeemen. Each member of said city committee shall be entitled to at least one vote in said committee, and if the vote cast in his assembly district for the candidate of the party for governor at the preceding election exceeded one thousand, to an additional vote for each one thousand votes, or major fraction thereof, of said excess.*

*(b) In every other city the city committee of each party shall consist of the members of the county committee whose units of representation are wholly within said city; and each member thereof shall be entitled to cast therein the same vote that he is entitled to cast in meetings of the county committee of which he is a member.*

*5. Judicial district committee. The judicial district committee of each party in each judicial district of the state shall be constituted by the election of three members from each assembly district comprised within said judicial district who shall be enrolled voters of the party within their respective units of representation. Each*

*assembly district shall be entitled to at least one vote in said committee, and if the vote cast in an assembly district for the candidate of the party for governor at the preceding election exceeded one thousand, to an additional vote for each one thousand votes or major fraction thereof of said excess; and the members elected from an assembly district shall be entitled to cast the said vote of said assembly district in equal shares.*

*6. Other district committees. The congressional district committees, the senatorial district committees, the school commissioner district committees, the borough district committees in a city having more than one million inhabitants, and the municipal court district committees and the aldermanic district committees in such a city, shall respectively consist of the members of the county committee or committees, excepting those members who are members of the executive committee, who reside within said districts respectively, and each member of said committees respectively shall be entitled to cast the same vote therein that he is entitled to cast in meetings of the county committee of which he is a member.*

*§ 36. Terms of office. Except as herein provided, the members of any party committee to be chosen as aforesaid shall be elected at the fall primary and shall serve for one year, or until their respective successors are elected; except that in each year in which a president of the United States is to be elected the members of said committees shall be elected at the spring primary and shall take office immediately and shall serve until the fall primary to be held in the next succeeding year or until their respective successors are elected.*

*The members of a city committee who are to be elected specifically as city committeemen, as aforesaid, and the members of the said judicial district committees shall be elected at the fall primary held in the year before the year in which any city officer, or justice of the supreme court, within the districts of said committees, respectively, is to be elected by reason of the expiration of his term of office, including in the case of a justice of the supreme court the expiration of his term of office by reason of age; and the members of said committees, respectively, shall hold office until their successors are elected as herein provided.*

§ 37. *Party rules and regulations.* Each party may by rules and regulations, not inconsistent with this chapter, provide for other committees, and the organization, membership and meetings of such additional committees. The rules and regulations of a party may prescribe the amount of annual dues to be paid by each member of any committee to such committee for the purpose of defraying the expenses thereof, and may contain a provision precluding any member who may fail to comply therewith from participating in the meetings of such committee, except meetings called for the designation of candidates for public office or to fill vacancies in such committee or in nominations.

§ 38. *Vacancies.* Where a vacancy has occurred in a committee provided for in subdivisions one, two, three-a or five of section thirty-five of this chapter, or with respect to a city committeeman specifically elected as such under subdivision four-a of said section, such vacancy shall be filled by the remaining members of said committee by the selection of an enrolled voter of the party qualified for election from the unit of representation as to which said vacancy shall have occurred; except that where the vacancy has occurred in any such committee with respect to a unit of representation from which more than one member of said committee shall have been elected, the remaining member or members, if any, of said committee elected from said unit of representation shall choose an enrolled voter of the party residing in said unit to fill said vacancy.

§ 39. *Meetings of committees.* 1. Except as otherwise provided in this chapter the organization of party committees, the times and places of meetings thereof, notices of meetings and the order and conduct of business, shall be governed by such rules as may be duly adopted by the respective committees. Such rules shall not be effective until a copy thereof duly certified on behalf of the committee shall have been filed as follows: Rules adopted by a state committee in the office of the secretary of state; rules adopted by any other committee in the office in which designations by such a committee of candidates for offices which are to be filled at the general election are required to be filed in accordance with the provisions of this chapter.

2. *In case no provisions therefor shall have been made in this chapter and no rules shall have been adopted providing for the time and place of meeting of any committee elected at an official primary in accordance with the provisions of this chapter, the meeting of such committee for the purpose of organization shall be held at a time and place fixed by a notice filed by the chairman of the existing committee, not less than two days before the primary day at which the members of the new committee are to be elected, or in case of his failure to file said notice, then at a time and place to be fixed by the filing of notice thereof by the secretary of the existing committee on or before said primary day; in case of the absence of an appropriate rule or notice as aforesaid, the said meeting, and any other meeting of said committee shall be held at a time and place fixed by a notice signed by not less than five members of said committee and duly mailed to each member of said committee at his post-office address within three days before the day for such meeting. Each such notice shall be filed in the office in which designations by said committee of candidates for party nominations are required to be filed. At any meeting called as aforesaid the said committee may organize, adopt proper rules and may transact any other business within the powers conferred upon said committee by this chapter or by the rules of the party not inconsistent with the provisions of this chapter.*

3. *Each committee, its officers and agents, shall duly deliver its books, papers and effects to its successor.*

40. *Quorum. When the members present of a committee represent a majority of the total number of votes which all the members of said committee are authorized to cast under the provisions of this chapter, a quorum shall be deemed to be present.*

§ 41. *Designation of candidates for party committeemen.*

1. *Candidates for election as party committeemen at any official primary shall be designated by petition only.*

2. *Petitions designating candidates for election as members of any party committee shall be filed in the office wherein the designations of candidates for nomination for public office within the same political division are required to be filed under the provisions of section sixty-four of this chapter, and shall be so filed*

*on or before five o'clock in the afternoon of the third Tuesday preceding the primary at which said candidates for party committees are to be voted for. All petitions filed in accordance with the provisions of this section, or certified copies thereof, shall forthwith be conspicuously posted by the custodian of primary records in his office and shall remain so posted until primary day, and shall be open to inspection as public records at all reasonable hours.*

*3. Petitions designating candidates for election to the several committees of the two parties casting the highest and next highest number of votes for governor at the last preceding election shall be signed only by enrolled voters of said party residing within the unit of representation from which the candidate is to be elected, as follows:*

*(a) Where said unit of representation is an assembly district, by not less than fifty nor more than one hundred enrolled voters.*

*(b) Where said unit of representation is less than an assembly district, by at least five and not more than fifty enrolled voters.*

*4. Petitions designating candidates for election to the several committees of all other parties shall be signed only by enrolled voters of such parties, in number equal to at least one-fifth of one per centum of the total vote polled by the candidate of such party for governor at the last preceding election, within the units of representation for which the respective petitions are filed.*

*5. Whenever any unit of representation shall be entitled to two or more members upon any committee specifically provided for in this chapter, every such petition shall include the names of as many persons as candidates for election upon such committee as such unit of representation shall be entitled to.*

*§ 42. Party council. In a year in which a governor is to be elected the candidates nominated by a party at an official primary election for offices to be voted for by the voters of the entire state, except judicial offices, the members of the state committee of such party, the candidates nominated by a party at an official primary election for the offices of state senator and member of assembly and, if the rules of the state committee shall so provide, the chairman of the county committees of the party, shall together constitute the party council, which shall meet at a time and place to*



*be designated by the state committee in its rules. If no rule providing therefor shall have been duly adopted, then such party council shall meet at a place, and at a time not more than two weeks after primary day, to be designated by the party candidate for governor, upon notice duly mailed to each member of the council at his post-office address not less than four days before the specified day of the meeting thereof; in case no meeting of such party council shall be called by said candidate for governor, by notice mailed within eight days after primary day, the candidate for lieutenant-governor may call such meeting upon a like notice of four days. The candidate for governor, and in his absence the candidate for lieutenant-governor shall preside at all meetings of the party council and the members present at any meeting duly called shall constitute a quorum. At all meetings thereof each member shall be entitled to one vote. The party council may adopt a platform or statement of principles and policies, and may also adopt or change the party emblem as hereinafter provided.*

§ 28. The section of the election law numbered section one hundred and twenty-four and renumbered section forty-three, as aforesaid, is hereby inserted as a part of article three thereof, and is amended to read as follows:

§ [124] 43. Emblems. When a party nomination is made [by a state convention] of a candidate or candidates to be voted for by the voters of the entire state, it shall be the duty of [such convention] *the party council of such party, unless an emblem has theretofore been duly adopted,* to select some simple [device or] emblem to designate [and distinguish] the candidates of the political party making such nomination or nominations. Such [device or] emblem shall be shown by a representation thereof upon a certificate signed and duly executed by the [presiding officer] *chairman* and [a] secretary of said [convention] *council*, which certificate shall be filed with the secretary of state, and such [device or] emblem, when [so] *duly* filed, shall in no case be used by any other party or independent body. When any independent body shall make a like nomination, as [hereinbefore] *provided in this chapter,* it shall be the duty of the persons who shall sign and execute the certificate of nomination of such candi-

date or candidates, to likewise select [some simple device or] *an* emblem to designate [and distinguish] the candidate of such independent body making such nomination, and such [device or] emblem shall be shown by the representation thereof upon such certificate of nomination. The [device or] emblem so chosen, when *duly* filed [as aforesaid], shall be used to designate [and distinguish all the candidates of the same political party or independent body nominated by such political party or independent body, or duly authorized committee [or primary] thereof in all districts of the state and shall continue to be used to designate [and distinguish] the candidates of such political party or independent body in all districts of the state until changed by the [state convention] *party council* of the political party or by the independent body choosing such [device or] emblem. [The device or emblem chosen as aforesaid may be a star, an animal, an anchor, or any other appropriate symbol, but] Neither the coat of arms or seal of any state of the United States, nor the state or national flag, nor any religious emblem or symbol, nor the portrait of any person, nor the representation of a coin or of the currency of the United States shall be chosen as such [distinguishing device or] emblem.

§ 29. The section of the election law numbered section one hundred and twenty-five and renumbered section forty-four, as aforesaid, is hereby inserted as a part of article three thereof, and is amended to read as follows:

§ [125] 44. Conflict in names or emblems. If [the] certificates of [nomination] the *party council* of two or more different [political] parties or independent bodies shall designate the same, or substantially the same, [device or] emblem or party name, the officer with whom the certificates [of nomination] are filed shall decide which of said [political] parties or independent bodies is entitled to the use of such [device or] emblem or party name, being governed as far as may be in his decision by priority of designation in the case of the [device or] emblem, and of use in the case of the party name. If the other [nominating] *party council or independent body* shall present no other [device] emblem or party name after such decision, such officer shall himself select for such other [nominating] *party council or*

*independent* body another [device] emblem or party name, so that no two different parties shall be designated by the same [device] emblem or party name. [If there be a division within a party, and two or more factions claim the same, or substantially the same, device or name, the officer aforesaid shall decide between such conflicting claims, giving preference of device and name to the convention or primary, or committee thereof, recognized by the regularly constituted party authorities.] Any questions arising with reference to any [device] emblem, or to the [political party or other] name designated in any certificate [of nomination] filed pursuant to the provisions of this [article] chapter, or with reference to the construction, validity or legality of any such certificate shall be determined in the first instance by the officer with whom such certificate [of nomination] is filed. Such decision shall be in writing and a copy thereof shall be sent forthwith by mail by such officer to the committee, if any, named upon the face of such certificate, and also to each candidate nominated by any certificate of nomination affected by such decision. The supreme court, or any justice thereof, within the judicial district, or any county judge within his county, shall have summary jurisdiction upon complaint of any citizen, to review the determination and acts of such officer, and to make such order in the premises as justice may require, but the final order must be made on or before the last day fixed for filing certificates of nomination to fill vacancies with such officer as provided in section one hundred and [thirty-six] forty-one of this [article] chapter. Such complaint shall be heard upon such notice to such officer as the said court or justice or judge thereof shall direct.

§ 30. The section of the election law numbered section one hundred and twenty-six and renumbered section forty-five, as aforesaid, is hereby inserted as a part of article three thereof, and is amended to read as follows:

§ [126] 45. Supplying omitted emblems. If [any certificate of nomination of candidates to be voted for by the voters of the entire state, filed with the secretary of state pursuant to the provisions of this chapter.] any party council, or if any independent body making a nomination of candidates to be voted

for by the voters of the entire state, shall omit to designate [a device or] an emblem to distinguish the candidates of the [political] party or independent body making such nomination, it shall be the duty of the secretary of state to select [a device or] an emblem for that purpose, and such [device or] emblem so chosen shall be used to distinguish all candidates of that party or independent body throughout the state, whether such candidates are nominated for state or local offices; and if any certificate of nomination of candidates to be voted for by the voters of a district less than the entire state shall be filed with the secretary of state, or with any public officer pursuant to this [article] chapter, by [a political party or] an independent body which has made no nomination of candidates for offices to be filled by the voters of the entire state, and such certificate of nomination shall omit to designate [a device or] an emblem to distinguish the candidates nominated in such certificate, it shall be the duty of the [secretary of state or other] public officer with whom such certificate of nomination is filed to select [a device or] an emblem to [represent] designate the candidates named in such certificate of nomination.

§ 31. The schedule of sections to article four of the election law is hereby amended to read as follows:

#### ARTICLE 4.

##### [ENROLLMENTS AND PRIMARIES IN TOWNS] DESIGNATION OF CANDIDATES FOR PARTY NOMINATIONS.

[Section 90. Territory excepted from operation of article.

91. Application of article.

92. Enrollment of books.

93. Entries in enrollment books; duties of election officers.

94. Special enrollments; correction of enrollment lists.

95. Special enrollment upon becoming of age.

96. Special enrollment after moving.

97. County clerks to compile enrollment lists.

98. Enrollment lists, when to take effect.

99. Who may be enrolled.

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**Section 100.** Enrollment lists and statements to be public records ;  
certified copies.

101. Conduct of primary elections ; challenges.

102. Judicial review.

103. Expense a town charge.

104. Penalty. ]

60. *Party nominations ; designation, how made.*

61. *Designation by petition.*

62. *Filing of designations.*

63. *Acceptance by person designated.*

64. *Certification by secretary of state. Numbering of  
candidates by custodians of primary records.*

65. *Vacancies, how filled.*

66. *Designation of delegates to national conventions.*

67. *Presidential electors*

68. *Contests ; judicial review*

69. *Official primary ballot.*

§ 32. The election law is hereby amended by inserting in article four thereof thirteen new sections, to be known as sections sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one and seventy-two, to read as follows :

§ 60. *Party nominations ; designation, how made. Party nominations for offices to be filled at a general election, which are described in and not excepted by subdivision four of section two of this chapter, shall be made at the fall primary preceding said general election by the enrolled voters of the party as in this chapter provided. Candidates for such party nominations shall be designated by petition as in this chapter specifically provided.*

§ 61. *Designation by petition. Every petition for the designation of a candidate for party nomination or for election as party committeeman shall be in substantially the following form :*

*I, the undersigned, do hereby certify that I am a duly enrolled voter of the ..... party, and I do hereby designate the following named person, or persons, as a candidate, or candidates, for nomination by the ..... party for public office, or offices, or as a candidate or candidates for election to the*

*position, or positions, of the said party to be voted for at the official primary election to be held on the . . . day of . . . , A. D., . . . , as hereinafter specified:*

<i>Name of candidate.</i>	<i>Public officer or party position.</i>	<i>Place of residence.</i>
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

*I do hereby appoint (here insert the names and addresses of at least three persons) as a committee to fill vacancies in accordance with the provisions of the election law.*

*In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.*

<i>Date.</i>	<i>Name of signer.</i>	<i>Residence.</i>	<i>Election district, town or ward.</i>
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

*State of New York, } ss.:  
County of ..... }*

*..... being duly sworn says that he is over the age of twenty-one years and resides at ..... (insert street and number of residence, if any); that the persons whose names are subscribed to the foregoing petition are severally personally known to him and known to him to be the persons who subscribed the foregoing petition; that they each signed such petition in his presence on the date set opposite their respective names and with full knowledge of the contents thereof.*

*Subscribed and sworn to before me, this  
.... day of ....., A. D., .....*

*(Title of officer taking oath.)*

*A petition for the designation of candidates for party nomination or for election to party position may designate candidates for nomination for one or more public offices, or for election to one or more party positions, or both.*

*Petitions for designation of candidates for party nominations.*

*a. Petitions of the two parties casting the highest and the next highest number of votes for governor at the last preceding election shall be signed respectively as follows:*

*For any office to be filled by the voters of the entire state by not less than one thousand.*

*For any office to be filled by the voters of the entire city in a city containing more than one million inhabitants, by not less than five hundred.*

*For any office to be filled by the voters of the entire city in a city of the first class containing less than one million inhabitants, for the office of justice of the supreme court, for any county, judicial or borough office to be filled by all the voters of a county containing more than two hundred and twenty-five thousand inhabitants, according to the last preceding state or federal enumeration, by not less than three hundred.*

*For any office to be filled by the voters of the entire city in a city of the second class, for the office of representative in congress, and for the office of senator, by not less than two hundred.*

*For any office to be filled by the voters of the entire city in a city of the third class, for the office of member of assembly, and for the office of justice of the municipal court, by not less than one hundred.*

*For the office of school commissioner, and for the office of alderman, by not less than fifty.*

*For any other office for which a designation may be made as prescribed in this article to which this chapter applies, by at least one-half of one per centum of the vote cast for the candidate for governor of the party of the petitioners at the preceding election within the district which such office is to be filled.*

*b. Petitions designating candidates for party nominations of all other parties shall be signed by at least one-half of one per centum of the vote cast for governor by such party at the last preceding election within the district within which such office is to be filled.*

*c. All papers signed and verified in the manner and form above prescribed for the purpose of designating the same candidate for nominating for the same public office or the same party position shall, when bound together and offered for filing as provided in this chapter, be deemed to constitute one petition with respect to said candidate.*

*No enrolled voter shall join in designating a greater number of candidates for party nomination for a public office or for election to a party position than the number of persons to be elected thereto. Where an enrolled voter shall sign any petition or petitions designating a greater number of candidates than he is permitted to designate as aforesaid his signatures, if they bear the same date, shall not be counted, and if they bear different dates they shall be counted in the order of their priority of date and only so far as he was entitled to make designations.*

§ 62. *Filing of designations. 1. Where to be filed. All designations for offices to be filled by the voters of the entire state, or any subdivision of the state greater than a county, shall be filed with the secretary of state. All other designations shall be filed with the custodians of primary records for the respective districts, except that each designation for member of assembly for the assembly district composing the counties of Fulton and Hamilton shall be filed in the office of the custodian of primary records of Fulton county, and a copy thereof, certified by such custodian, shall be filed in the office of the custodian of primary records of Hamilton county, so long as the said counties constitute one assembly district; and except that designations of candidates for offices to be filled by the voters residing in the city of New York, or a portion thereof, shall be filed with the board of elections of said city. Designations of candidates for offices to be filled by voters part of whom reside in New York city and part of whom reside in a county not wholly within said city, shall be filed both with the custodian of primary records of such county and with the board of elections of said city. All designations filed in accordance with the provisions of this section, or certified copies thereof, shall forthwith be conspicuously posted by the custodian of primary records in his office and shall remain so posted until primary*



day, and shall be open to inspection as public records at all reasonable hours.

2. *When to be filed* All designations by petition shall be filed on or before five o'clock in the afternoon of the third Tuesday preceding the primary at which the candidates therein designated are to be voted for. All designations shall at the time of the filing thereof be stamped or indorsed by the secretary of state, or the custodian of primary records, as the case may be, with the day, hour and minute of such filing.

3. *Vacancy in office.* In case a special election shall be called to fill a vacancy in office there shall be an official primary election in and for the district in which the vacancy exists and such official primary election shall be held on the sixteenth day before such special election or if that day be a Sunday or a holiday, on the next preceding business day. Designations of candidates for party nomination for such special election shall be made only by petition; the provisions of this chapter as to the form of petition, manner of execution and verification, and number of signers shall apply to each such petition, and each such petition shall be filed not later than noon of the fifth day preceding the primary election.

§ 63. *Acceptance by person designated.* A petition for the designation either of a party committeeman or of a candidate for public office shall be void, unless there shall be filed in the office of the secretary of state or a custodian of primary records within three days after the filing of such petition a declaration duly executed and acknowledged by the person designated, that if nominated he will accept such nomination, and that if elected he will qualify and serve; except that if such person shall be without the state at the time such designation is filed and proof thereof shall be made by affidavit it shall be unnecessary to file such declaration.

§ 64. *Certification by secretary of state; numbering of candidates by custodian of primary records.* The secretary of state shall, at least seventeen days before an official primary election, except a primary election held to nominate candidates to be voted for at a special election, prepare and transmit to the several custodians of primary records within the political subdivisions where the candidates, designations of whom have been duly filed with him, are to be voted for, a certificate setting forth the names and

*residences of such candidates, the titles of the offices or party positions for which they are named, and the name of the party upon whose primary ballot their names are to be placed, and in case of a special election he shall prepare and transmit such certificate at least three days before the official primary election.*

*Upon the receipt of said certificate the custodian of primary records shall forthwith give the respective candidates upon each set of ballots for each party a number from number one upward, beginning in the alphabetical order of surnames with the first candidate for nomination for public office in the same consecutive order in which said offices appear upon the official ballot for the general election, and then consecutively through the names of said candidates alphabetically in the order of surnames under each division for the nomination of candidates for public office, and in the same manner through the names of said candidates for election to party positions alphabetically under each division, and in the same consecutive order in which said positions are defined in article three of this chapter, provided that where there are two or more candidates for election to the same party committee designated on the same petition the names of such candidates shall be deemed to constitute a group, and the names shall not be given separate numbers, but each group shall be given a single number consecutively in the order in which the petitions containing the names constituting such groups were filed.*

§ 65. *Vacancies, how filled. If a candidate regularly designated for election upon a committee, or for a party nomination for public office, dies before the primary day, or is found to be disqualified to hold the office for which he has been designated, a committee to fill vacancies which may be appointed by the signers and shown upon the face of the petition of designation may make a new designation, to fill the vacancy so created, by making and filing with the officer with whom the original designation was filed a certificate setting forth the cause of the vacancy, the name of the person designated by them, the name of the original candidate, and the name of the party on whose behalf the original certificate of designation was made. Such certificate shall be subscribed and acknowledged by a majority of the members of the committee to fill vacancies, who shall severally make*

*oath that the matters therein stated are true to the best of their knowledge and belief, and when so filed such certificate shall have the same force and effect as the original petition. In case such certificate shall be filed with the secretary of state, he shall forthwith certify to the proper custodian or custodians of primary records the name of the person designated by such certificate and such other facts as are required to be stated therein. In case the certificate from the secretary of state shall be received by a custodian of primary records, or an original certificate of designation as in this section provided for shall be filed with him, after the official ballots have been printed and before primary day, it shall be his duty to prepare and furnish to the inspectors of election in each election district affected adhesive pasters containing the name of the candidate designated to fill the vacancy with directions for the proper use thereof. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no larger than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been designated. Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the person originally designated, the name of the person designated in the new certificate, the title of the office for which the designation is made, the name of the political party to which the committee making the designation belongs, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for each such district. Upon the delivery of said pasters the inspectors of election shall sign and receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall affix one of such pasters in the proper place and in a proper manner upon each official ballot before such ballot shall be delivered to a voter. When so affixed to an official ballot the paster shall be a part of the official ballot. The inspectors shall include in their statement of ballots a statement showing the number of pasters received by*

*them, the number of pasters affixed to official ballots, and the number of unused pasters returned by them, the unused pasters to be inclosed in the package of ballots not delivered to voters. The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.*

§ 66. *Designation of delegates to national conventions. In each year when a president of the United States is to be elected, delegates and alternates-at-large, and district delegates and alternates to national party conventions shall be elected at the spring primary. Unless other provision be made by or pursuant to the rules of the national party convention, delegates and alternates-at-large to said convention shall be designated in the same manner as prescribed by this chapter for the designation of candidates for party nominations for offices to be filled by the voters of the entire state, and district delegates and alternates to said convention shall be designated in the same manner as prescribed by this chapter for the designation of candidates for party nominations for the office of representative in congress save that the time for filing designations as hereinabove prescribed shall be computed with respect to the spring primary instead of the fall primary.*

§ 67. *Presidential electors. In each year when a president of the United States is to be elected, candidates for the office of elector for president and vice-president of the United States shall be nominated by the state committee of each of the parties to which this act applies, one for each congressional district, who shall be a resident therein, and two at large.*

§ 68. *Contests; judicial review. Any question arising with reference to the construction, validity or legality of any designation or of any certificate to fill vacancy, or with reference to any other question relating thereto, and any question with reference to the filling of any vacancy on the official ballot before a primary election, shall be determined forthwith in the first instance by the officer with whom such designation or certificate is required to be filed. If such officer declines to receive and file any such designation or certificate, he must forthwith indorse thereon a statement of his grounds therefor and must forthwith return such des-*

ignation of certificate to the person who presented it for filing. Any candidate named in such designation or certificate so returned or any signer thereof may apply to the supreme court, or a justice thereof, within the judicial district in which the office of such officer is located, upon a duly certified petition, for an order to show cause why such designation or certificate should not be ordered filed. Such order may be made returnable forthwith, or upon such notice as the court, or justice, may direct, and shall be served upon said officer and such other person or persons as the court, or justice, may require. The court, or justice, may make such final order in regard to the filing of such designation or certificate as may be required in order to carry out the true intent and purposes of this act. Unless a designation or certificate be protested, as hereinafter provided, within three days after the filing thereof, the same shall be deemed to be valid in all respects and the person, or persons, therein designated shall be deemed to have been duly designated. A designation or certificate may be protested, either by said officer, or by any enrolled voter of the party named therein, resident within the political subdivision wherein any candidate therein named is to be voted for. Such protest shall be in writing and signed and shall concisely allege all the grounds upon which such designation or certificate is claimed to be invalid. No such protest shall be effective until filed with the officer with whom such designation or certificate has been filed, and such officer, upon the filing of such protest, shall forthwith post the same, or a true copy thereof, upon a board to be in public view in his office, and shall forthwith mail notice of the fact of the filing of such protest to each candidate affected thereby, and also to the committee, if any, appointed on the face of such certificate to fill vacancies. The supreme court, or a justice thereof, within the judicial district embracing the county wherein such designation or certificate is filed, shall have jurisdiction upon the duly verified petition of any enrolled voter who shall have filed such protest or of any candidate affected thereby, to review summarily the determination and acts of said officer with whom said designation certificate is filed, with respect to the designation or certificate so protested, and to make such final order with regard thereto, or with regard to the legal effect thereof, as

may be required to carry out the true intent and purposes of this chapter. Notice of hearing upon any such petition shall be given to the said officer, to each candidate named in such designation or certificate, and to such other persons, and in such manner, as the court or justice may direct. The pendency of any such proceeding shall not operate to prevent or delay the printing of the official primary ballots, and the names of all candidates shall be printed thereon without regard to the pendency thereof. In case the court, or justice, shall order the removal from the files of any designation or certificate, the names of the candidate, or candidates, which by virtue of such order are wrongfully printed upon any ballot, shall be canceled by means of blank adhesive pasters, which shall be affixed over such name, or names, in the same manner and by the same persons who, by this chapter, are required to affix pasters upon the official ballots for the purpose of adding names of candidates designated to fill vacancies.

§ 69. Official primary ballot. There shall be prepared, printed and supplied in the manner hereinafter provided for use at official primary elections official primary ballots for each election district for each party equal in number to one and one-third times the total number of enrolled voters of the party in the election district, and except as otherwise expressly provided in this chapter, no other ballots shall be used at an official primary election.

No names either of candidates for nomination for public office or of candidates for any party office or position, or of candidates for delegates or alternates to any convention, shall be printed upon an official primary ballot except upon petition duly made as prescribed in this article or in article three of this chapter. Nor shall any names, or words, or signs, or writing whatever be printed, written, stamped or in any manner placed upon an official primary ballot except as herein provided.

The official primary ballots shall conform in quality, weight, color and style of printing to the ballots prescribed in this chapter for use in the general election. The colors of the ballots shall be such that those of each party shall be easily distinguishable from those of all the other parties, and shall be such that the printing thereon shall be easily legible. The ballot shall be printed upon the same leaf with the stub and separated therefrom by a per-

forated line; the part above the perforated line, designated as the stub, shall extend the entire width of the ballot, and shall be of sufficient depth to allow the instruction to voters to be printed thereon. Upon the face of each stub shall be printed in type known as brevier the following instructions: "In order to vote, the voter should make with a lead pencil having black lead a cross X mark in the voting space at the left of the name of the candidate or candidates for whom he desires to vote. To vote for a person whose name is not on the ballot, write the name of such person under the title of the public office or party position in the blank space provided for that purpose. Any other mark than the cross X mark used for the purpose of voting, or any erasure made on this ballot, makes it void, and it cannot be counted as a vote for any candidate. If you tear or deface or wrongfully mark the ballot, return it and obtain another, but only one additional ballot may be so obtained."

Upon the face of each ballot and directly below the perforated line shall be printed the following: "Official ballot for the primary election of the (name of party) party," the name of the county; the date on which such primary is held; the party emblem; the assembly district number and the election district number, directly below which shall be printed a heavy black horizontal line. The face of the ballot below the heavy black line shall be divided into two parts by a heavy black vertical line. Immediately below the heavy black horizontal line in the center of the space at the left of said vertical line shall be printed the caption "Candidates for nomination for public office."

Under said caption the names of candidates for nomination for public office shall be printed under the titles of the respective offices for which they are candidates respectively, so that the names of all candidates for nomination for an office shall be printed under the title of said office, and so that the said offices shall appear in the same consecutive order in which they appear upon the official ballot for the general election. Immediately below the title of each public office shall be printed in brevier lower case type a direction to voters as to the number of persons to be voted for, in the following words: "Vote for" (the blank space being filled with the number of persons to be nomi-

nated for said office at the official primary election). Immediately below this direction and separated therefrom by a horizontal line shall be printed the name or names of candidates duly designated for such office by petition for such office as provided in this article and in article three of this chapter. Immediately below the names of all the candidates in the case of each public office there shall be left a blank space or blank spaces equal in number to the number of candidates to be nominated for said office. The voter at the official primary election may write in such blank space or spaces the name of any person or persons for whom he desires to vote whose name or names are not printed upon the ballot. Voting spaces shall be provided at the left of each column opposite the names of candidates in the same manner as provided for on the official ballot for the general election.

Immediately below the said heavy black horizontal line and in the space at the right of said heavy black vertical line shall be printed the caption "Candidates for party positions." Under said caption the names of candidates for election to party positions shall be printed under the title of the respective party positions for which they are candidates respectively, so that the names of all candidates for a party position shall be printed under the title of said position, and so that the said party positions shall appear in the order in which said positions are defined in article three of this chapter. Immediately below the title of each of said party positions shall be printed in briefer lower case type a direction to voters as to the number of persons to be voted for, in the following words: "Vote for " (the blank space being filled with the number of persons to be elected to said party positions at the official primary election). Immediately below this direction and separated therefrom by a horizontal line shall be printed the name or names of candidates duly designated by petition for such party positions as provided in this article and in article three of this chapter. Immediately below the names of all the candidates in the case of each party position there shall be left a blank space or blank spaces equal in number to the number of candidates to be nominated for said position and the voter at the official primary election may write in such blank space or spaces the name or names of any person or persons for whom he



*desires to vote whose name or names are not printed upon the ballot. Voting spaces shall be provided at the left of each column opposite the names of the candidates in the same manner as provided for on the official ballot for the general election.*

*The names of the different candidates shall be separated from each other by light horizontal ruled lines and the spaces devoted to the several public offices and party positions shall be separated by a black ruled line so as to separate each division clearly. If two or more columns are used on either side of the heavy black vertical line the columns shall be separated by a black ruled line.*

*The names together with the number set opposite the same in each division under the title of each public office and under the title of each party position shall be alternated on the official primary ballots of each party and printed in the following manner:*

*First, the forms shall be set up with the names and numbers of the respective candidates for nomination for public office and the names and numbers of respective candidates for election to party positions arranged alphabetically in order according to the surnames of said candidates excepting where two or more candidates are to be elected to the same party committee, the names of such candidates appearing upon the same petitions shall be arranged in groups, and the said groups with their respective numbers shall be arranged in the order in which the petitions were filed with the proper officer. In printing each set of ballots for the several election districts, the positions of the names or groups together with their numbers shall be changed in each division under each title as many times as there are candidates in the division in which there are the most names, a group counting as one name. As nearly as possible an equal number of ballots shall be printed after each change. In making the changes of position the line of type at the head of each division including the name and number shall be placed at the bottom of the division immediately below the last name or group and the column shoved up so that the name and number that before was second in order in said division shall be first in order after the change. After the ballots are printed, they shall be kept in separate piles, the one pile for each change of positions, and shall then be arranged in consecutive order by taking one ballot from each pile in the order*

*of printing, the intention being that each name or group shall appear in the first place under their respective divisions an equal number of times.*

*After the ballots are so arranged they shall be numbered consecutively on the back of the stub as provided in this article.*

*Where there shall be more than thirty persons designated for nomination to public office or more than thirty persons designated for election to party positions, then in either case the names of persons so designated for nomination to public office or for election to party positions, respectively, shall be arranged in columns on the proper side of the heavy black vertical line as hereinbefore prescribed so that not more than thirty names shall be placed in any one column and so that the names of persons designated for nomination for the same office or for election to the same party position shall not be placed in different columns.*

*The number given the respective candidates for nomination for public office and the respective candidates or groups of candidates for election to party positions by the custodian of primary records shall be printed in arabic numerals of heavy faced type at the left of the name of each candidate or groups of candidates for election to party position and at the right of the voting space aforesaid; where there are two or more candidates for the same party committee grouped as aforesaid, each group shall have a single number, and there shall be immediately above and immediately below the names in each group a space of one-quarter of an inch separating said group from the names or groups of names of other candidates for the same party position.*

*Where the name of a candidate for nomination for the same public office or for election to the same party position, or where the same group of candidates for the same party position, is designated by two or more petitions, it shall be placed upon a ballot only once; provided that where the name of a candidate for a party position to which two or more persons are to be elected appears as one of a group in more than one petition, the said name shall be printed as many times as it may form part of distinct groups; and provided further that nothing herein contained shall prevent the printing of the name of a candidate upon the same official ballot as a candidate for nomination for public office*

*and at the same time as a candidate for one or more distinct party positions.*

*On the back of the ballot, below the stub, and immediately at the left of the center of the ballot, shall be printed the name and emblem of the party, and in great primer Roman condensed capitals: "Official primary ballot for," and after the word "for" shall follow the designation of the polling place for which the ballot is prepared, the date of the primary election, and a facsimile of the signature of the officer who has caused the ballot to be printed. On the back of the stub, immediately above the center of the indorsement upon the back of the ballot, shall be printed the consecutive number of the ballot, beginning with "number one," and increasing in regular numerical order.*

*The official primary ballot shall be prepared and printed in substantially the following form:*

§ 33. The schedule of sections to article five of the election law is hereby amended to read as follows:

## ARTICLE 5.

### **[NOMINATIONS]** CONDUCT OF PRIMARY ELECTIONS; CANVASS OF RETURNS.

#### **[Section 120. Party nominations.**

121. Party certificates of nomination.
122. Independent nominations.
123. Independent certificates of nomination.
124. Emblems.
125. Conflict in names or emblems.
126. Supplying omitted emblems.
127. Places of filing certificates of nomination.
128. Times of filing certificates of nomination.
129. Certification of nomination by secretary of state.
130. Publication of nominations.
131. Lists for town clerks and aldermen.
132. Posting town and village nominations.
133. Declination of nomination.
134. Objections to certificates of nomination.
135. Filling vacancies in nominations.

No. 84

of

(NAME OF PARTY) BALLOT

(PARTY EMBLEM)

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OFFICIAL PRIMARY BALLOT FOR  
 TEENTH ELECTION DISTRICT  
 FORTY-THIRD ASSEMBLY  
 TRICT, COUNTY OF NEW  
 SEPTEMBER 19, 1911.

JOHN DOE,

(Facsimile)

*President Board* of

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- Section 136.** Certificates of new nominations.
- 137.** Death of candidate after printing of ballots; official pasters.】
- 90.** *Organization and conduct of official primaries.*
- 91.** *Qualifications of voters at official primaries.*
- 92.** *Duties of chairman of official primary.*
- 93.** *Expense of official primary.*
- 94.** *Primary districts and polling places.*
- 95.** *Notice of official primary.*
- 96.** *Primary election officers.*
- 97.** *Removals from, and filling vacancies in, boards of primary election officers.*
- 98.** *Meeting of primary officers, selection of chairman, duties, compensation and oath.*
- 99.** *Ballots, booths and supplies.*
- 100.** *Delivery of ballots and manner of voting.*
- 101.** *Unofficial ballots.*
- 102.** *Preparation of ballot by voters.*
- 103.** *Challenges at official primary elections.*
- 104.** *Persons within the guard-rail.*
- 105.** *Watchers; challengers; electioneering.*
- 106.** *Canvass of votes.*
- 107.** *Intent of voters.*
- 108.** *Proclamation and statement of result.*
- 109.** *Preservation of ballots.*
- 110.** *Canvass of statements of result; certificates of nomination for election.*
- 111.** *Filling vacancies and determination of tie vote after primaries.*
- 112.** *Jurisdiction of, and review by the courts.*
- 113.** *Primaries held to nominate candidates for special elections.*
- 114.** *Unofficial primaries.*
- 115.** *Use of duplicate enrollment lists at unofficial primaries.*
- 116.** *Primaries not governed by preceding sections; notice.*
- 117.** *Organization and conduct of such primaries.*

- Section 118 Qualifications of voters at such primaries.*  
*119. Duties of chairman of such primary.*  
*120. Watchers and canvass of votes at such primaries.*  
*121. Party certificate of nominations of town and village officers.*  
*122. Penalty for violation.*  
*123. Perjury.*

§ 34. The election law is hereby amended by adding thereto as a part of article five a new section, to be known as section ninety, and to read as follows:

§ 90. *Organization and conduct of official primaries. 1. Every official primary election shall be conducted in each primary election district by the board of primary election officers thereof.*

*2. All said officers shall take and subscribe the constitutional oath of office before entering on the discharge of their duties.*

*3. Such primary shall be held open from three o'clock in the afternoon until nine o'clock in the evening, for voting thereat.*

*4. The primary election officers shall perform the same duties that they are required to perform in a general election, and such additional duties as are in this chapter prescribed.*

*5. In each year when a president and vice-president of the United States are to be elected, an official primary election shall be held on the eighth Tuesday before the general election and in other years an official primary election shall be held on the seventh Tuesday before the general election; in each year in which a president of the United States is to be elected, an additional official primary election shall be held on the last Tuesday in March.*

§ 35. The election law is hereby amended by inserting therein as a part of article five thereof a new section, to be section ninety-one, and to read as follows:

§ 91. *Qualifications of voters at official primaries. No person shall be entitled to vote at any official primary unless he is duly enrolled and may be qualified to vote on the day of election. The primary election inspectors shall decide all questions that arise relating to the qualifications of voters.*

§ 36. Such chapter is hereby amended by inserting therein as a part of article five thereof a new section, to be section ninety-two, and to read as follows:

§ 92. *Duties of chairman of official primary. The chairman may administer any oath required to be administered at any official primary. When a voter is challenged by an elector he shall reject such vote, unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter, and shall state under oath that he is qualified to vote at such primary.*

§ 37. The section of the election law numbered section forty-seven and renumbered section ninety-three, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [47] 93. *Expense of official primaries. The expense of official primary elections, including the expense of preparing and copying new enrollment books and the compensation herein provided to be paid to primary election officers [inspectors], shall be paid by the same officers or boards [of the city in which said primary is held,] and in the same manner, as the expenses of general elections. If provision shall not have been made for the payment of such expense in any year, including the year nineteen hundred and eleven, then the officers who are empowered by law to make such provision in any county, city, town or other political subdivision of the state, are hereby authorized and directed to raise money to such an amount as may be necessary, in any manner provided by law for meeting expenses in anticipation of the collection of taxes and to pay such expense therefrom. The amount so raised shall be included in the amount to be raised by tax in the ensuing year.*

§ 38. The section of the election law numbered section forty-eight and renumbered section ninety-four, as aforesaid, is hereby inserted as a part of article five thereof, and is amended to read as follows:

§ [48] 94. *Primary districts and polling places. [The custodian of primary records shall, thirty days before each official primary day, divide every ward or assembly district in a city and every village to which this article is applicable, into primary districts, each of which shall consist of two contiguous election districts, except that in case there is an odd number of election districts in such ward, assembly district or village, the highest*



numbered election district shall be a primary district by itself.] *Each election district shall constitute a primary district.* There shall be [two] one polling place[s] in each of such primary districts which shall be designated and provided at public expense by the officers or boards whose duty is to provide polling places for days of general election, and which shall be, so far as [they are] available, the [same] place[s as were] used for the last preceding general election. [The custodian of primary records shall assign one of the polling places in each primary district to the party which, at the last election of a governor, cast the highest number of votes for governor, and at the other polling place in such primary district there shall be held the primary elections of all other parties.]

§ 39. The election law is hereby amended by inserting therein as part of article five a new section, to be known as section ninety-five, and to read as follows:

§ 95. *Notices. At least three months before an official primary election the chairman of the county committee of each party shall make and deliver to the custodian of primary records for said county a statement of the action of the county committee with respect to the basis upon which the members of the county committee and of the assembly district committee within said county shall be constituted as provided in subdivision two (b) and subdivision three (a) of section thirty-five of this chapter, and the number of the members of said committees to be elected accordingly at said official primary election. In case any party committee, in addition to the committees specifically provided for in this chapter, shall be constituted in accordance with section thirty-seven of this chapter, the chairman of the county committee of the county, or of the city committee of the city embracing the district for which said committee shall be constituted, shall make and deliver to the custodians of primary records having jurisdiction of said district, a statement describing the said committee and the number of members to be elected at the official primary election. If the district for which said committee shall be constituted shall embrace more than one county, and shall not be included within a city, the chairman of the state committee of the party shall make and deliver said statement to the secretary of*

*state. In either case said statement shall be made and delivered to the proper officer at least three months before the next official primary election; and if it shall be made and delivered to the secretary of state as aforesaid, that officer shall within one week thereafter make and transmit a certified copy thereof to each of the custodians of primary records having jurisdiction of primary districts within which votes may be cast for candidates for said party positions. Each custodian of primary records shall forthwith post all notices received by him as in this section provided and shall keep the same posted until the next official primary election.*

*The custodian of primary records shall prepare a notice of each official primary election provided for by this article, and shall publish such notice twice a week for a period of four weeks before the primary election in the manner prescribed in this chapter for the publication of notices of a general election. Such notice shall specify the day of such primary election, the hours during which it will be held, the location of each polling place, and the convention, committees and offices for which delegates, members or candidates, as the case may be, will be voted for thereat. And in each county of the state the last publication of such notice shall contain the names of the candidates duly designated whose names will appear upon the official ballot within such county, together with the number given the respective candidates by the custodians of primary records.*

§ 40. The section of the election law numbered section fifty-two and renumbered section ninety-six, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [52] 96. Primary election officers. There shall be for such primary district [two] a board[s] of primary election [inspectors] officers, [one of] which shall consist of the election inspectors, for the election district comprising [or districts comprised within] such primary district [who shall, at the time, represent the party which, at the last preceding general election of a governor, shall have cast the largest number of votes for governor, and the other of which shall consist of the election inspectors who shall represent the party which, at such election, shall have cast

the second largest number of votes for governor, except that in a primary district coterminous with an election district each board shall have, as an additional member thereof, the poll clerk who shall represent the same party as the two inspectors of election. The first mentioned of said boards shall conduct the primary elections of the party represented by its members, and the second mentioned of said boards shall conduct the primary elections of all other parties at the time entitled to hold official primary elections].

§ 41. The election law is hereby amended by inserting as a part of article five a new section, to be known as section ninety-seven thereof, and to read as follows:

§ 97. *Removals from, and filling vacancies in, boards of primary election officers. Removals from boards of primary election officers shall be made, and vacancies occurring in such boards shall be filled, in the same manner as is provided in this chapter for making removals from boards of election officers and for filling vacancies therein on a day of registration.*

§ 42. The election law is hereby amended by inserting as a part of article five a new section, to be section ninety-eight thereof, and to read as follows:

§ 98. *Meeting of primary officers, selection of chairman, duties, compensation and oath. 1. The primary officers in each primary district, as provided in section ninety-six of this chapter, shall meet at the polling places therein at least one-half hour before the time set for opening the polls and shall proceed to place the guard-rail so that it shall be at least six feet in front of the ballot boxes and voting booths and to arrange the space within the guard-rail, and the furniture thereof, including the voting booths, for the orderly and legal conduct of the primary. Before otherwise entering upon their duties, the primary officers of each primary district shall then immediately appoint one of their number chairman, or if a majority shall not agree upon such appointment, they shall draw lots for that position. They shall also designate and appoint in the same manner one of their number who shall act as poll clerk as provided for by subdivision two of this section, who shall be known as the primary poll clerk, and one of their number who shall have charge of the folding and delivery of the ballots to the electors and who shall be known as the primary ballot clerk. In*

*counties wholly within a city, in addition to the duties herein prescribed, the fourth or remaining member of the board of primary officers shall compare the signatures as provided by subdivision two of this section. The selection of primary officers to act as a primary poll clerk and a primary ballot clerk must be from primary officers representing two different political parties. The primary officers shall then and there have the ballot boxes required by law for the reception of ballots to be voted thereat, the box for the reception of the ballots found to be defective in printing, or mutilated, before delivery to, and ballots spoiled and returned by electors, the sealed packages of official ballots and instruction cards and distance markers, return sheets and other stationery required to be delivered to them for such primary election and the registration and enrollment books. The primary officers shall thereupon open the sealed packages of instruction cards and cause them to be placed conspicuously, at least one, and if printed in different languages, at least one of each language, in each of the voting booths of such polling place, and at least three of each language in which they are printed in and about the polling place, shall open the sealed packages of official ballots and place them in charge of one of their number selected for that purpose and shall cause to be placed at a distance of one hundred feet from the polling place the visible markers to prohibit "loitering and electioneering" within such distance. They shall also, before any ballots are cast, see that the voting booths are supplied with pencils having black lead only, unlock the ballot boxes, see that they are empty, allow the watchers present to examine them, and shall lock them up again while empty in such a manner that the watchers present and persons just outside the guard-rail can see that such boxes are empty when they are relocked. After such boxes are relocked they shall not be unlocked or opened until the closing of the polls of such election, and except as authorized by law, no ballots or other matter shall be placed in them after they are so relocked, before the announcement of the result of such canvass and the signing of the original statement of canvass and the two certified copies thereof. The instruction cards and distance markers posted as provided by law shall not be taken down, torn or defaced during such primary election. The primary officers, with such boxes and enrollment-books, shall be stationed as near*

each other as practicable within such inclosed space. One of the primary officers shall then make proclamation that the polls of the primary are opened, and of the time o'clock in the evening when the polls will be closed. From the time of the opening of the polls until the announcement of the result of the canvass of the votes cast thereat, and the signing of the official returns or statements of such canvass and the copies thereof, the boxes and all official ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except primary officers, duly authorized watchers, persons admitted by the primary inspectors to preserve order or enforce the law, persons duly admitted for the purpose of voting; provided, however, that candidates voted for at such polling place may be present at the canvass of the votes. In all proceedings of the primary officers or canvassers, they shall act as a board, and in case of a question arising, as to matters which may call for a determination by them, a majority of such board shall decide. The primary officers serving on primary days shall each be paid the sum paid to inspectors for services on a day of registration for each day of such service.

Before entering on his duties, each primary inspector shall make and subscribe an oath to faithfully perform his duties as such, which oath shall form a part of the return to the custodian of primary records.

2. Each primary poll clerk at each polling place for which official primary ballots are required to be provided shall have a poll-book for each party in each election district for keeping the list of enrolled voters voting, or offering to vote thereat at the primary election. Except in counties wholly within a city, such book shall have columns headed respectively, "Number of enrolled voter," "Name of party of enrolled voter," "Name of enrolled voter," "Residence of enrolled voter," "Number on ballots delivered to enrolled voter," "Number on ballot voted," and "Remarks." In counties wholly within a city, such book shall have columns headed respectively, "Number of enrolled voter," "Name of party of enrolled voter," "Name of enrolled voter," "Residence of enrolled voter," "Signature of statement number of enrolled voter," "Signature compared by primary inspector," "Number on ballots delivered to enrolled voter," "Number on ballot voted," and "Remarks."

Upon each delivery of an official primary ballot by the primary ballot clerk to an enrolled voter, the primary poll clerk shall enter

upon the poll-book of the election district in which the enrolled voter resides, in the appropriate column, the number of the enrolled voter, in the successive order of the delivery of the ballots thereto, the name of the enrolled voter in the alphabetical order of the first letter of his surname, his residence by street and number, or if he have no street number, a brief description of the locality thereof, the printed number upon the stub of the ballots delivered to such enrolled voter, and the number of the ballot voted by him. Except that in counties wholly within a city in addition to the duties herein prescribed the poll clerk shall previous to the delivery of an official ballot direct the enrolled voter to sign his name by his own hand and without assistance, using an indelible pencil or ink in the column provided therefor. After the enrolled voter shall have so signed, and also before an official primary ballot shall be given him the primary inspector designated for such duty shall compare the signature made in the primary poll-book with the signature heretofore made by the voter in the registration book on registration day, and if said signature is the same, or sufficiently similar to the signature written on registration day, as to identify it as being written by the same person who wrote the signature on registration day, said primary inspector shall thereupon certify that fact by writing his initials after such signature, in the column headed "signatures compared by inspector." If the ballot delivered to any enrolled voter shall be returned by him to the primary ballot clerk, and he shall obtain a new ballot the primary poll clerk shall write opposite his name on the poll-book in the proper column the printed number of the stub of such ballot. Each primary poll clerk shall make a memorandum upon his poll-book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll-book opposite the name of such person the names of the primary officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted.

As each enrolled voter offers the ballot which he intends to vote to the primary inspector, the primary poll clerk shall report to the primary officers whether the number entered on the poll-

*book kept by him as the number on the ballot last delivered to such enrolled voter is the same as the number on the stub of the ballot so offered. As each enrolled voter votes, each primary poll clerk shall enter in the proper column on his poll-book the number on the stub of the ballot voted. Upon the close of the polls of the primary election, the primary poll clerks and all primary officers shall compare the poll-books with the enrollment-books or registers and correct any mistakes found therein.*

§ 43. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section ninety-nine and to read as follows:

§ 99. *Ballots, booths and supplies. The custodian of primary records shall have printed for each party ballots for each election district equal in number, as near as may be, to one and one-third times the total number of enrolled voters of the party in the election district, prepared as herein described, together with at least two of the registration-books for such districts as provided for in section five of this chapter for use in primary elections, and in counties wholly within a city, one of such registration-books shall be the book containing the signatures of the voters who registered for the preceding general election, which shall be delivered by the custodian of primary records to the proper primary officers at the various polling places at least one-half hour before the time fixed for the opening of the polls. The polling places, voting booths, guard-rails, distance markers, ballot boxes, sample ballots, poll-books and other supplies required for official primary elections shall be provided and paid for by the same officers, and in the same manner, as in the case of general elections. At all official primary elections a separate box with the name and emblem of the party and with the number of the election district clearly and conspicuously written or printed thereon shall be provided at each polling place for each party participating in a primary election at such polling place; and there shall also be a large box for the reception of unvoted ballots and an additional box for detached ballot stubs, and there shall be affixed to the outside of the polling place and in at least two places on the inside thereof, and in a conspicuous manner, placards printed with large-sized, bold-faced type, which shall specify the name of the*

*parties whose primary election is being held in such polling place Sample ballots shall be provided by the custodian of primary records for each party for each election district, equal in number, as near as may be, to twenty-five per centum of the number of official ballots required to be furnished for such party for such election district. Such sample ballots shall be printed on paper different in color from the paper used for the official ballot, and there shall be no numbers upon the stubs thereof, but in all other respects such sample ballots shall be precisely like the official ballots. One of such sample ballots shall be furnished upon application at any time on primary day to any voter entitled to vote the ballot of which he requests a sample.*

*The custodian of primary records shall prepare and furnish to each board of primary election inspectors two tally sheet blanks and two statement of result blanks for each political party whose primary election is under the jurisdiction of said board of primary election inspectors. Upon each of said blanks shall be indorsed the name of the party, the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district for which said blank is to be used.*

*Each such tally sheet shall consist of three columns separated from each other by vertical lines running from top to bottom of each page of the tally sheet. In the first column shall be printed the title of each public office for which a candidate is to be nominated, the name of each committee to which members are to be elected, and the name of each other party position to which candidates are to be elected. Under the name of each public office for which candidates are to be nominated and on the same page shall be printed, in alphabetical order, the names of all candidates for the nomination thereof. Under the name of each committee and on the same page shall be spaces in which the primary inspectors shall write, in alphabetical order, the names of all candidates for election thereto. Each name and each space upon said tally sheet shall be separate from the other names and spaces next thereto by parallel horizontal lines extending from one side of the sheet to the other. The second column upon the tally sheet shall be headed, at the top of each page thereof, "Space for*



tally as canvass progresses." The third column in like manner shall be headed, "Space for total number of votes received by each candidate."

Each such statement of result sheet shall consist of two columns separated from each other by a vertical line running from top to bottom of each page of the sheet. In the first column shall be printed the title of each public office, the name of each committee, and other party position, and the names of all the candidates therefor, which shall be printed in the same manner and order as upon the tally sheet in the first column thereof. All names shall be separated from each other by parallel horizontal lines. At the head of each statement of result sheet shall be printed the following: "Statement of result of the vote cast at the official primary election held on the ..... day of ..... (the blanks being properly filled)," and there shall also be printed the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district. At the foot of each such statement of result sheet shall appear the following certificate to be signed by the primary election inspectors: "We hereby certify that the foregoing statement of result is true and correct in all respects.

" .....  
 " .....  
 " .....  
 " .....

"Board of Primary Election Inspectors."

All pages of each tally sheet and of each statement of result sheet shall be securely bound in convenient form.

§ 44. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred, and to read as follows:

§ 100. Delivery of ballots and manner of voting. No voter at a primary election shall be given or be allowed to make or cast the ballot of any party with which he has not enrolled. The folding and delivery of ballots and the manner of voting shall be the same as prescribed for the folding and delivery of ballots and the manner of voting prescribed by the provisions of this chapter relating to general elections so far as the same may be applicable,

excepting that each ballot after detachment of the stub by the officer charged with that duty shall be deposited in the separate box provided for the party designated on the ballot, and such officer, in addition to announcing the name of the voter and number of the stub, shall also announce the party name thereon.

§ 45. The election law is hereby amended by inserting therein as part of article five a new section, to be known as section one hundred and one, and to read as follows:

§ 101. *Unofficial ballots.* If, for any cause, the official ballots for any party shall not be provided as required by law at any polling place, upon the opening of the polls of any primary election thereat, or if the supply of official ballots for any party shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly practicable in the form of the official ballot, may be used.

§ 46. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred and two, and to read as follows:

§ 102. *Preparation of ballot by voters.* On receiving a ballot the voter shall forthwith retire alone to one of the voting booths, and without undue delay unfold and mark his ballot. He shall make a cross X mark in each blank square space at the left of the name of the candidate for whom he desires to vote. One straight line crossing another straight line at any angle within the voting space shall be deemed a valid voting mark. It shall not be lawful to make any mark upon a ballot other than a cross X mark made for the purpose of voting and such mark shall be made only with a pencil having black lead and only in the voting spaces to the left of the names of the candidates; except that the voter may write with a pencil having black lead in the blank space under the proper title of the office the name of any person or persons for whom he desires to vote whose name or names are not printed upon the ballot; nor shall it be lawful to deface or tear a ballot in any manner, nor to erase any printed name, device, figure, word or letter therefrom, nor to erase any mark made thereon by such voter. If the voter deface or tear a ballot, or wrongfully mark the same or make an erasure thereon, he may obtain one additional ballot on returning to the ballot clerk the one so defaced or wrongfully marked.

§ 47. The section of the election law numbered sections fifty-seven and fifty-eight, and renumbered sections one hundred and three and one hundred and four, as aforesaid, are hereby inserted as a part of article five thereof, and amended to read as follows:

§ [57] 103. Challenges at official primary elections. The right of an enrolled voter to participate in any official primary election shall be subject to challenge at any time before his ballot is deposited in the ballot box. *When any enrolled voter shall be challenged the provisions of sections three hundred and sixty-one, three hundred and sixty-two, three hundred and sixty-three and three hundred and sixty-four of this chapter shall apply so far as they may be applicable.* [when any enrolled voter shall be challenged, the chairman, or one of the members, of said board, shall forthwith put to him an oath or affirmation to answer truly such questions as shall be put to him, and he shall be allowed to vote if, and only if, he shall make such oath or affirmation, and shall answer in the affirmative each of the following questions:

"Are you ..... (using the name which he has given as his name) ?

"Do you reside, and have you, thirty days last past, resided at ..... (giving the address which he has given as his residence) ? ""]

§ [58] 104. Persons within the guard-rail. From the time of the opening of the polls, until the result of the canvass of the votes cast thereat shall have been announced, and the official statements of such canvass shall have been signed, the ballot boxes and all voted ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except primary election [inspectors] officers, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law and persons duly admitted for the purpose of voting; provided, however, that any candidate voted for may be present at the canvass of the votes.

§ 48. The section of the election law numbered section fifty-nine, and renumbered section one hundred and five, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [59] 105. Watchers; challengers; electioneering. *The ballot and other boxes used at any primary shall be examined by the*

*inspectors in the presence of the watchers, if any, before any ballots are received.* [Watchers, not exceeding one] One watcher for each election district [6] may be appointed by any political committee, and by any two or more of the persons whose names are upon any ticket to be voted for at such primary election. Such watchers may be present at such polling place and within the guard-rail from at least fifteen minutes before the examination of any ballot or other box at the opening of the polls of such primary election until after the announcement of the result of the canvass of the votes cast thereat and the signing of the statements thereof by the inspectors. A reasonable number of challengers; at least one person for any three or more persons of each party holding its primary election at that polling place, whose names are upon any official ballot [ticket to be voted for] at such primary election, shall be permitted to remain just outside the guard-rail of each such polling place, where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open, at any polling place do any electioneering within such polling place, or within one hundred feet therefrom, in any public street or in any building or room, or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place on any primary day.

§ 49. The section of the election law numbered section sixty and renumbered section one hundred and six, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [60] 106. Canvass of votes. As soon as the polls at any official primary election shall close, the board of primary inspectors shall forthwith publicly canvass and ascertain the result thereof, and they shall not adjourn or postpone the canvass until it shall be fully completed. All questions touching the validity of ballots or their conformity with the provisions of this [article] chapter shall be determined by a majority vote of the board of primary inspectors. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons during the canvass, to close, or cause to be closed, the main

entrance to the room in which such canvass is conducted, in such manner as to prevent ingress or egress thereby. The board of primary inspectors shall proceed to canvass the vote by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the enrollment book[s] to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess, and, without unfolding them, forthwith destroy them. If two or more ballots shall be found in a [the] ballot box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the enrollment book[s] to have been deposited therein, and not otherwise. If there lawfully be more than one ballot box for the reception of ballots voted for at any one polling place, no ballot found in the wrong ballot box shall be rejected, but shall be counted in the same manner as if found in the proper box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the enrollment book[s] to have been deposited in the proper box. The chairman only of the board of primary inspectors shall unfold the ballots taken from [the] a ballot box. When a ballot is not void, and a primary election inspector or a duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any way for the purpose of identification, the inspectors shall write on the back of such ballot "Protested as marked for identification," and shall specify over their signatures upon the back thereof the mark or markings upon such ballot to which objection is made. The votes upon each such ballot shall be counted by them as if not so protested. If any ballots shall be rejected as void, the reason for such rejection shall be written on the back thereof by the chairman

of inspectors, or by an inspector designated by him. All ballots rejected as void, and all ballots protested as marked for identification, shall be inclosed in a separate sealed package, which shall be indorsed on the outside thereof with the names of the inspectors, the designation of the election district, the number and kind of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. A statement of the number of ballots of *any party* protested as marked for identification, and of the number thereof rejected as void, shall be included in each of the statements of the result of the canvass *for such party*. If requested by any watcher, the inspector shall, during the canvass, exhibit any and all ballots cast at such primary election to such watcher, fully opened and in such condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand.

§ 50. The election law is hereby amended by inserting therein as a part of article five thereof a new section, to be section one hundred and seven thereof, to read as follows:

§ 107. *Intent of voters. If the voter marks more names than there are persons to be nominated for an office or elected to party position, or if for any other reason it is impossible to determine the voter's choice of a candidate for a party position or for nomination for an office, his vote shall not be counted therefor but shall be returned as a blank vote for such nomination or party position.*

§ 51. The section of the election law numbered sixty-one, as amended by chapter two hundred and forty of the laws of nineteen hundred and nine, and renumbered section one hundred and eight, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [61] 108. Proclamation and statement of result. Immediately upon the completion of such canvass, the board of primary inspectors in each primary district shall make public oral proclamation of the result thereof, and shall make *upon the statement of result sheet for each party* a written statement of such result, *[for each election district in such primary district]* and also a duplicate thereof, which shall be known as the duplicate statement. Immediately after the completion of such statements, such  
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board shall file the originals thereof with the custodian of primary records, and shall file the duplicate statements with the clerk of the city, town or village. [In any county which contains a city or village to which this article is applicable and has territory greater than such city or village, the officers presiding at primary elections held in the political divisions of such county outside of such city or village shall file with the custodian of primary records immediately after the holding of every such primary election a sworn statement of the delegates and members of general committees elected thereat.] *At all reasonable times any watcher shall have reasonable opportunity to make a transcript of any such statement, or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned.*

§ 52. The section of the election law numbered section sixty-two and renumbered section one hundred and nine, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [62] 109. [Certificates of election; p] Preservation of ballots. [At all reasonable times any watcher shall have reasonable opportunity to make a transcript of *any* such statement, or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned. In the case of a primary election at which persons are elected to any convention or committee from election districts as the unit of representation, the board of primary inspectors shall, promptly after canvassing the vote, deliver to each of the persons who receive the largest number of votes as delegates to, or as members of, such convention or committee, or to the respective persons authorized in writing by them to receive the same, a certificate stating the total number of votes cast for the respective candidates and the number thereof received by such persons respectively. Such certificate shall be the evidence of the election of such persons, and shall entitle them and each of them to be placed upon the roll of, and be admitted to, such convention or committee.]

After the close of the canvass of the votes at *official* primary elections, the ballots cast thereat, except those rejected as void or

protested as marked for identification, shall be replaced in the ballot boxes from which they were respectively taken, and such ballot boxes shall then be securely locked and sealed, and, *together with the box containing the stubs*, shall be returned to the officer from which they were received, who shall safely keep the same, subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after such primary election, and until all suits or proceedings before any court or judge touching the same shall have been finally determined, when the ballots *and stubs* shall be removed and, without examination, destroyed. The custodian of primary records shall not be required to retain on file the enrollment books and other papers required to be filed with him by the board of primary inspectors for a period of more than three years unless otherwise directed by the district attorney of the county or a judge or justice of a court of record.

§ 53. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred and ten, to read as follows:

§ 110. *Canvass of statements of result; certificates of nomination or election.* 1. *Canvass by custodians of primary records.* The custodian of primary records shall forthwith proceed to canvass the statements of result filed with him as provided in this article, and shall complete such canvass within one hundred and twenty hours from midnight of the day upon which the primary election was held.

*He shall canvass separately the votes cast in each election district by the enrolled voters of the several parties respectively.*

*The candidate for a party nomination to public office, or for election to a party position, to be filled by the voters of a territory wholly within an election district, ward or town, who has received the highest number of votes cast in the primary election of a party in such election district, ward or town, shall be the nominee of said party for such public office, or shall be elected to such party position. Said custodian shall forthwith deliver to such candidate, if nominated, and if elected to a party position, a certificate of his nomination or election.*

*The candidate for a party nomination to public office, or for election to a party position to be filled by the voters of a district*



*wholly within the jurisdiction of a custodian of primary records and greater than an election district, ward or town, who has received the highest number of votes cast, in the primary election of a party, in an election district, if within a city containing one million inhabitants or more, if elsewhere, in a ward or town, shall be credited with a total vote equal to the number of votes cast for the candidate of said party for governor at the preceding election in such election district, ward or town.*

*The candidate who has the highest number of votes so credited shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The custodian shall forthwith deliver to such candidate a certificate of such nomination to public office or election to party position, as the case may be.*

*If the boundaries of any election district within the territory in which the custodian of primary records has jurisdiction shall have been changed since the last preceding general election at which a governor was elected, said custodian at least thirty days before the primary election shall estimate as closely as possible the vote of each party for governor at such election within the limits of the newly constituted election districts. He shall forthwith reduce such estimates to writing and file the same as a part of the public records of his office. Each such estimate so filed shall, for the purpose of this article, be and be treated as the vote of the respective parties for their candidates for governor, respectively, at the preceding general election in each such election district.*

*In case a part but not the whole of an assembly district is included within a district in which a designation for public office is required to be filed with the secretary of state, the custodian of primary records having jurisdiction over such part of an assembly district shall, on or before primary day, certify to the secretary of state the vote cast therein at the last preceding election for the candidate of each party for governor.*

*The custodian of primary records shall duly certify to the secretary of state a statement of the vote cast in the primary election by the enrolled voters of each party, respectively, in each assembly*

*district in the territory within his jurisdiction for all candidates for public office, or for party position, whose designations are required by this chapter to be filed in the office of the secretary of state, except candidates for the office of member of congress or state senator, whose vote in each town or ward, and, if in a city of one million inhabitants or over, in each election district therein, shall be stated. Such certificate shall be filed by such custodian in the office of the secretary of state within ninety-six hours from midnight of the day on which the primary election was held.*

2. *The secretary of state shall forthwith proceed to canvass the certified statements so filed with him, and such canvass shall be made separately as to the candidates of each party and in the following manner:*

*To each candidate, except a candidate for the office of member of congress or state senator, certified to him to have received the highest number of votes cast in any assembly district in the primary election of a party, he shall credit a vote equal to the number of votes cast in such assembly district for the candidate of said party for governor at the preceding election, and to each candidate for the office of member of congress or state senator certified to have received the highest number of votes cast in any town or ward, or, if in a city of one million inhabitants or over, in any election district therein, he shall credit a vote equal to the number of votes cast in such town, ward or election district for the candidate of his party for governor at such preceding election. The candidate who has the highest number of votes so credited shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The secretary of state shall forthwith transmit to such candidate a certificate of such nomination to public office or election to party position as the case may be.*

3. *A certificate of nomination or election at an official primary of a party duly issued as herein provided shall entitle the person to whom it is issued, if a candidate for public office, to a place on the official election ballot as the candidate of said party for the office for which he has been nominated, and if a candidate for party position to membership in the committee or to a seat in the convention to which he is elected.*

4. *Notwithstanding the provisions of this section, any party at any time before September first in the year nineteen hundred and eleven, and at any time before July first in any subsequent year, may in accordance with its practice adopt a rule providing the method or plan for canvassing the votes cast as provided in this chapter at an official primary election by the enrolled voters of such party for candidates for nomination for public office and for election to party positions, whether for the entire state or for any political subdivision thereof, and such method or plan may provide for the canvass of such votes in a manner different from that prescribed in subdivisions one and two of this section, or different from that previously adopted by said party, and either with or without proportional representation.*

*Unless a party in accordance with its practice shall otherwise provide such a method or plan for canvassing said votes may be adopted on behalf of said party at any time of the times aforesaid in the following manner:*

*By the state committee of said party with respect to nominations for offices to be filled by the voters of the entire state or of any district embracing more than one county, except a city in which the party has a city committee, and with respect to any party position or membership in any party committee where such position or committee represents the party either in the entire state or in such a district.*

*By the county committee of the party in any county, with respect to nominations for offices to be filled by the voters of said county or of any district therein and not embracing more than said county, except any city in which said party has a city committee, and with respect to any party position or membership in any committee representing the party in said county or in such a district.*

*By the city committee of the party in any city in which the party has a city committee, with respect to nominations for offices to be filled by the voters of said city or of any division thereof, and with respect to any party position or membership in any party committee representing the party in said city or in any division thereof.*

*Any party rule providing the method or plan for canvassing the votes cast at the official primary election as aforesaid must be filed,*

*properly authenticated, within five days after its adoption as aforesaid, in the office of the secretary of state and also in the offices of the custodians of primary records having jurisdiction over the political subdivisions, respectively, to which the rule is applicable; and no such rule adopted by any committee as aforesaid shall be effective unless adopted by a vote of the majority of all the members thereof.*

*Where a party rule providing the method or plan for the canvass of votes shall be adopted and filed as aforesaid, said canvass shall be made and certified by the officers mentioned in subdivisions one and two of this section in accordance with the said method or plan and said officers shall issue certificates of party nomination for office or of election to party position to the persons entitled thereto accordingly and said certificates of nomination or election shall have the same force and effect as the certificates of nomination or election described in subdivision three of this section.*

§ 54. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred and eleven, and to read as follows:

§ 111. *Filling vacancies and determination of tie vote after primaries. A vacancy in a nomination for public office made at a primary election shall be filled as follows: A vacancy caused by the death of a candidate, or his disqualification, or by a tie vote, shall be filled by the committee of the party authorized by this chapter to make designations for such office. Such vacancy may be filled by a majority vote of a quorum of such committee. In case of a vacancy caused by a tie vote, only the candidates between whom such tie vote occurred shall be eligible for such nomination. Certificates of such nomination shall be filed in the office in which a designation of a candidate for such office is required to be filed.*

§ 55. The section of the election law numbered section seventy and renumbered section one hundred and twelve, as aforesaid, is hereby inserted as part of article five thereof, and amended to read as follows:

§ [70] 112. Jurisdiction of, and review by, the courts. Any action or neglect of the officers or members of a political [convention or] committee, or of any inspector of primary election, or of any public officer, or board, with regard to the right of any

person to participate in a primary election, [convention] or committee, or to enroll with any party, or with regard to any right given to, or duly prescribed for, any voter, political committee, [political convention,] officer or board, by this article, shall be reviewable by the appropriate remedy of mandamus or certiorari, as the case may require. In addition thereto, the supreme court, or any justice thereof within the judicial district, or any county judge within his county, shall have summary jurisdiction, upon complaint of any citizen, to review such action or neglect. Such complaint shall be heard upon such notice as the said court or justice or judge thereof shall direct. In reviewing such action or neglect, the court, justice or judge shall consider, but need not be controlled by, any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto, and shall make such decision and order as, under all the facts and circumstances of the case, justice may require. For any of the purposes of this section, service of a writ of mandamus, certiorari, order or other process of said court or justice or judge thereof upon the chairman or secretary of such [convention,] committee or board, shall be sufficient.

§ 56. The election law is hereby amended by inserting therein as a part of article five a new section, to be section one hundred and thirteen, to read as follows:

§ 113. *Primaries held to nominate candidates for special elections. In case a special election shall be called to fill a vacancy in office there shall be an official primary election in and for the political subdivision in which the vacancy exists for the purpose of nominating candidates, of the various parties holding the same, for the office to be filled at such special election, and such official primary election shall be held on the eighteenth day before such special election, or if that day be a Sunday or a holiday, on the next preceding business day. Designations of candidates for public office shall be made by party committee or petition in the manner provided in this chapter; provided, however, that each such designation by party committee shall be filed not later than noon of the fourth day preceding and each such petition shall be filed not later than noon of the second day preceding the primary election. Notice of a meeting of a party*

*committee to designate candidates for such an official primary must be mailed to each member of such committee at his last known post-office address not less than two days before the day fixed for such meeting. If, however, the proclamation by which the special election is called is made more than thirty days prior to the date of such election, the governor may, in his discretion, and by such proclamation, enlarge the interval between the times above prescribed for filing petitions for nominations, and holding the official primary election.*

*When the primary election, to which this section relates, is to be held on the date specified therein, such reasonable notice thereof shall be given by the custodian of primary records as the circumstances permit. When the same is to held at a different time, as designated in the proclamation by which the special election is called, the provisions of the proclamation in relation to notice shall be observed. The official primary ballots shall be furnished and used and candidates' names and the title of the public office or party position printed thereon as provided in article five of this chapter, and the canvass of votes, preparation of statements of result and tally sheets, canvass of results and certification thereof shall be conducted as provided in article five; except that any provision in either article as to the time of performing any such act shall not be controlling in respect to such primary election, but the same shall be performed at or within such reasonable time or times as may be practicable under the circumstances.*

§ 57. The section of the election law numbered section fifty and renumbered section one hundred and fourteen, as aforesaid, is hereby inserted as a part of article five, and amended to read as follows:

§ [50] 114. Unofficial primaries. Notice of all unofficial primary elections shall be given in the same manner as in the case of official primary elections, except that such notice shall be given by the proper party officers and shall not be at public expense. Unofficial primary elections shall be held in such places within the unit of representation for which the primary election is held, as shall be designated by the proper political committee, but there shall be at least one polling place within and for each assembly district, ward or village. The chairman and secretary of the

political committee calling an unofficial primary election, or under whose direction such primary election is held, shall post and keep posted during the election, at or near the entrance to the room where the primary election is held, so that the same is clearly visible from the street, a conspicuous notice calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules and regulations of such party.

*There shall be a chairman and secretary for each unofficial primary and there may be tellers. No person shall be entitled to vote in an unofficial primary unless he may be qualified to vote on the day of election.*

*The chairman may administer any oath required to be administered at any primary and he shall decide all questions that arise relating to the qualifications of voters when a voter is challenged by any elector and shall reject such vote unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter and shall state under oath that he is qualified to vote at such primary.*

*The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.*

*No unofficial primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.*

§ 58. The section of the election law numbered section thirty-seven and renumbered section one hundred and fifteen, as aforesaid, is hereby inserted as a part of article five, and amended to read as follows:

§ [37] 115. Use of duplicate enrollment [books] lists at unofficial primaries. At an unofficial primary election of a party,

the certified copy of the enrollment lists [books, completed, in the case of election districts outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over, to the first day of the month preceding the month in which the primary election is held,] shall be used, and no voter shall be allowed to take part in such primary election as a resident of an election district, unless his name is upon the certified copy of the enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate.

§ 59. The section of the election law numbered section three and renumbered section one hundred and sixteen, as aforesaid, is hereby inserted as part of article five, and amended to read as follows:

§ [3] 116. *Primaries not governed by preceding sections; [N] notice [of primary. Elsewhere than in a city or in a village having five thousand inhabitants or more according to the last preceding federal or state enumeration, e]. Every primary held for the election of a town, village or school district committee, or for the election of delegates to a town or village convention or city convention to nominate candidates for a city election to be held at a time other than the general election, or for the nomination of town, village or school district officers or city officers to be elected at a time other than the general election, and every other primary not governed by the preceding sections of this article shall be called and held pursuant to notice given according to the regulations and usages of the political party or independent body holding it.*

§ 60. The section of the election law numbered section four and renumbered section one hundred and seventeen, as aforesaid, is hereby inserted as a part of article five, and amended, to read as follows:

§ [4] 117. *Organization and conduct of such primaries. Every such primary, unless otherwise provided by law, shall be presided over and conducted by officers to be selected in the manner prescribed by the rules or regulations of the political party or independent body holding such primary. [If the rules and regulations of the political party or independent body calling it so require, or if it shall be, by a vote of the voters present, so resolved, or, if it be in a city or in a village having five thousand inhabitants or more*



according to the last preceding federal or state enumeration, and five qualified voters of the district where it is held, belonging to the political party calling it, shall serve upon the secretary or chairman of the general committee of the party, or of its organization in such city or village, or upon the chairman of the district committee, a written demand stating that they so require it, t] The following additional requirements[, or such of them as may be specified in such demand,] shall be complied with:

1. The chairman and other officers shall take the constitutional oath of office.

2. Candidates and delegates and officers of the organization or committee shall be chosen by ballot *if the rules and regulations of the political party or independent body calling it so require, or if it shall be so resolved by a vote of the voters present.*

3. The meeting shall be held open [not less than one hour for voting thereat.] *for such time as the rules and regulations of the political party or independent body calling it require, which shall not be less than three hours between the hours of twelve o'clock noon and seven o'clock in the evening.*

4. The tellers shall keep a poll list of the names and residences of all persons voting, and assist the secretary in the canvass of the votes.

5. A voter shall be appointed watcher for each candidate or set of candidates or delegates requesting the same.

6. The chairman shall publicly announce the number of votes cast for each candidate, and the result of the canvass at the completion thereof, and shall[, if the primary be held in a city or in a village having a population of more than five thousand inhabitants, as shown by the last preceding federal or state enumeration,] *within forty-eight hours after the closing of such primary file a statement of such results and the oath taken at such primary, and the poll list kept thereat, in the office of the county clerk[, if located in such city or village,] and a duplicate statement of such results [otherwise] in the office of the town, city or village clerk, and the papers so filed shall be public records and open to inspection and examination by any voter of the state.*

§ 61. The section of the election law numbered section five, and renumbered section one hundred and eighteen, as aforesaid,

is hereby inserted as a part of article five, and amended to read as follows:

§ [5] 118. Qualifications of voters at *such* primaries. No person shall be entitled to vote at any *such* primary held for the purpose of nominating candidates for public office or for the purpose of electing delegates to conventions to nominate *such* candidates unless he may be qualified to vote for *such* candidates on the day of election, and if a party primary, he is also an enrolled voter of the party. Voters at *such* primaries held by independent bodies shall possess such other qualifications as shall be required by the regulations and usages of the [political party or] independent body holding the same. At every party primary held for the election of a town or village committee, for delegates to a town or village convention, or for the nomination of town or village officers, the certified copy of the enrollment book for the town as filed in the town clerk's office by the custodian of primary records, together with the certified statements of supplemental enrollments so filed prior to the time of *such* primary, shall be used; or in lieu thereof, copies of *such* certified enrollment book and statements certified by the town clerk may be used. The town clerk shall, on request, deliver to the proper town or village committee of the party holding *such* primary for use at *such* primary the original certified copy of *such* enrollment book and statements of supplemental enrollments for *such* town, or certified copies thereof. If originals are so delivered, they shall be returned to the town clerk at the close of *such* primary. At a primary election of a party held to elect delegates to a city convention to nominate officers to be elected at a city election, at a time other than the general election, or to nominate officers to be elected at *such* election, the certified copy of the enrollment completed to the first day of the month preceding the month in which the primary is held shall be used, and no voter shall be allowed to take part in *such* primary election as a resident of an election district, unless his name is upon the certified copy of the enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate.

§ 62. The section of the election law numbered section six, and renumbered section one hundred and nineteen, as aforesaid, is

hereby inserted as a part of article five, and amended to read as follows:

§ [6] 119. Duties of chairman of *such* primary. The chairman may administer any oath required to be administered at any *such* primary. He shall decide all questions that arise relating to the qualifications of voters when a voter is challenged by an elector and shall reject such vote, unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter, and shall state under oath that he is qualified to vote at such primary.

§ 63. The section of the election law numbered section seven, and renumbered section one hundred and twenty, as aforesaid, is hereby inserted as a part of article five, and amended to read as follows:

§ [7] 120. Watchers and canvass of votes at *such* primaries. The ballot box used at any *such* primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate the secretary shall publicly announce the vote and the result of the canvass.

§ 64. The election law is hereby amended by inserting therein, as part of article five, a new section, to be known as section one hundred and twenty-one, and to read as follows:

§ 121. *Party certificate of nominations of town and village officers. The party certificate whereby nominations of candidates for public office to be voted for only in a town, or a village or subdivision thereof, shall contain the title of the office for which each person is nominated, and the name and residence of each such person. It shall also designate, in not more than five words, the name of the political party by which the nomination is made and shall be properly authenticated.*

§ 65. The election law is hereby amended by inserting therein as a part of article five, a new section, to be known as section one hundred and twenty-two, and to read as follows:

§ 122. *Penalty for violation. Unless otherwise expressly provided in this chapter, any person violating any of the provisions of articles two, three, four and five of this chapter is guilty of a misdemeanor.*

§ 66. The section of the election law numbered section seventy-four, and renumbered section one hundred and twenty-three, as aforesaid, is hereby inserted as a part of article five hereof, and amended to read as follows:

§ [74] 123. Perjury. All oaths administered under the provisions of [this article] *the preceding articles of this chapter* are hereby declared to be oaths required by law, and to be necessary for the ends of public justice.

§ 67. A new article and schedule of sections are hereby inserted in the election law, to read as follows:

#### ARTICLE 5-A.

##### INDEPENDENT NOMINATIONS AND CERTIFICATES OF NOMINATION.

*Section 134. Independent nominations.*

*135. Independent certificates of nomination.*

§ 68. Section one hundred and twenty-two of the election law is hereby renumbered section one hundred and thirty-four, and is hereby inserted unchanged in article five-a thereof.

§69. Section one hundred and twenty-three of the election law, renumbered section one hundred and thirty-five, as aforesaid, is hereby inserted in article five-a thereof, and amended to read as follows:

§ [123] 135. Independent certificates of nomination. Independent nominations shall be made by certificate subscribed by such voters, each of whom shall add to his signature his place of residence, and *shall* make oath that he is a voter and has truly stated his residence. The making of the said oath shall be proved by the certificate of the notary or other officer before whom the said oath is taken, and it shall be unnecessary for a voter who has subscribed a certificate of nomination as herein provided to sign any affidavit as to the matter to which he has made oath as aforesaid. The certificate hereinbefore provided for of the notary or other officer shall be in the following form substantially:

"STATE OF NEW YORK, }  
County of....., } ss.:

On the ..... day of ....., in the year ....., before me personally came (here shall be inserted the names of each and every voter appearing and making oath before the said officer), each of whom was to me personally known and known by me to be the voter whose name and place of residence is subscribed by him to the foregoing certificate and each of the foregoing voters being by me duly and severally sworn did make oath that he is a voter and has truly stated his residence, and that it is his intention to support at the polls the candidacy of the person or persons nominated for public office in the foregoing certificate of nomination.

(Signature and official title.)"

The certificate of nomination and each separate paper thereof, if there be more than one such paper, shall contain the following declaration which shall be subscribed by the signers thereof:

"We, the undersigned duly qualified voters of the district for which the nomination for public office is hereby made under the provisions of section one hundred and [twenty-two] *thirty-four* and one hundred and [twenty-three] *thirty-five* of the election law, do hereby declare that it is our intention to support at the polls the candidacy of the person or persons herein nominated for public office."

The certificate shall also contain the titles of the offices to be filled, the name and residence of each candidate nominated, and if in a city, the street number of such residence and his place of business, if any; and shall designate in not more than five words the political or other name which the signers shall select, which name shall not include the name of any organized [political] party.

A certificate may designate upon its face one or more persons as a committee to represent the signers thereof, for the purposes specified by section one hundred and [thirty-five] *forty-four* of this [article] chapter. The signatures to the certificates of nomination need not all be appended to one paper. No person shall join in nominating more candidates for any one office than there are persons to be elected thereto, and no certificate shall contain

the names of more candidates for any office than there are persons to be elected to such office. *The certificate shall be filed with the same officer or officers as a designation of a candidate for a party nomination for the same office shall be filed.*

§ 70. A new article, to be known as article five-b, is hereby inserted in the election law, to read as follows:

### ARTICLE 5-B.

#### FILING CERTIFICATES OF NOMINATION; PUBLICATION.

- Section 136. Places of filing certain certificates of nomination.*  
*137. Times of filing certificates of nomination.*  
*138. Certification of nominations by secretary of state.*  
*139. Publication of nominations.*  
*140. Lists of town clerks and aldermen.*  
*141. Posting town and village nominations.*  
*142. Declination of nomination.*  
*143. Objections to certificates of nomination.*  
*144. Filling vacancies in nominations.*  
*145. Certificates of new nominations.*  
*146. Death of candidate after printing of ballots; official pasters.*

§ 71. Section one hundred and twenty-seven of the election law, renumbered section one hundred and thirty-six, as aforesaid, is hereby inserted in article five-b thereof, and amended to read as follows:

§ [127] 136. Places of filing *certain* certificates of nomination. [Certificates of nomination of candidates for office to be filled by the voters of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county shall be filed in the office of the county clerk of Hamilton county so long as the said counties constitute one assembly district, and except that certificates of nomination of candidates for offices to be filled only by the voters

or a portion of the voters of the city of New York shall be filed with the board of elections of the city of New York.

Certificates of nomination of candidates for offices to be filled only by the votes of voters, part of whom are of New York city and part of whom are of a county not wholly within the city of New York, shall be filed with the clerk of such county and in the office of the board of elections of said city. Certificates of nomination of candidates for offices of any other city, except the city of Buffalo, to be elected at the same time at which a general election is held shall be filed with the clerk of the county in which such city is located.】 Certificates of nomination of candidates for offices [of any other city, except the city of Buffalo, or for officers] of a *city*, village or town to be elected at a different time from a general election shall be filed with the clerk of such city, village or town, respectively.

In towns in which town meetings are held at the time of general elections, certificates of nomination of candidates for town offices shall be in duplicate, one of which shall be filed with the town clerk of the town in which such officers are to be voted for, and the other with the clerk of the county in which such town is located, except that in [the county of Erie] *counties having a commissioner of elections* all such duplicate certificates of nomination shall be filed, one with the commissioner of elections and one with the clerk of the town in which such officers are to be voted for. [All other certificates of nomination, except in the county of Erie, shall be filed with the clerk of the county in which the candidates so nominated are to be voted for, and in the county of Erie all such certificates, including certificates for the nomination of ward and city officers in the city of Buffalo, shall be filed with the commissioner of elections.】

All *filed* certificates and corrected certificates of nominations, all objections to such certificates and all declinations of nomination are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without delay every such paper to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates

issued by or filed in the office of such officer or board or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination, and in which shall also be stated all declinations of nomination or objections to nominations, and the time of filing each of the said papers.

§ 72, Section one hundred and twenty-eight of the election law is hereby renumbered section one hundred and thirty-seven, and inserted in article five-b thereof, and is amended to read as follows:

§ [128] 137. Times of filing certificates of nomination. [The] *Unless otherwise specifically provided in this chapter,* the different certificates of nomination shall be filed within the following periods before the election for which the nominations are made, to wit: Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; if independent nominations, at least twenty-five and not more than forty days; those required to be filed with the county clerk, or the board of elections of the city of New York, or with the city clerk of any other city, or with the commissioner of elections of [Erie county] *counties having a commissioner of elections,* if party nominations, at least twenty-five and not more than thirty-five days; if independent nominations, at least twenty and not more than thirty-five days; those required to be filed with a town or village clerk, if party nominations at least fifteen and not more than twenty days; if independent nominations at least ten and not more than twenty days; except that in towns, other than in the county of Erie, where town meetings are held at the time of general elections, certificates of nomination for town officers shall be filed with the town and county clerks within the time required by this section for the filing of certificates of nomination with the county clerk, and in the county of Erie such certificates shall be filed with the commissioner of elections and the town clerks not less than twenty nor more than thirty days before the day of election.

In case of a special election ordered by the governor under the provisions of section two hundred and ninety-two of this chapter the certificates of nomination for the office or offices to be filled



at such special election shall be filed with the proper officers or boards not less than **[fifteen]** *ten* days before such special election.

§ 73. Section one hundred and twenty-nine of the election law is hereby renumbered section one hundred and thirty-eight, and inserted in article five-b thereof, and is amended to read as follows:

§ **[129]** *138.* Certification of nomination by secretary of state. The secretary of state shall, fourteen days before the election, *or nine days before a special election*, certify to the county clerk of each county, except **[the county of Erie]** *counties having a commissioner of elections*, and those counties the whole of which is within the city of New York, and to the board of elections of the city of New York, and to the commissioner of elections of **[the county of Erie]** *counties having a commissioner of elections*, the name, residence and place of business, if any, of **[such]** *each* candidate *either* nominated in any certificate so filed *with him, or to whom he has issued a certificate*, for whom the voters of any such county or said city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem **[or device]** chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

§ 74. Section one hundred and thirty of the election law is hereby renumbered section one hundred and thirty-nine, and inserted in article five-b thereof, and is amended to read as follows:

§ **[130]** *139.* Publication of nomination. At least six days before an election to fill any public office the county clerk of each county, except those counties which are wholly within the city of New York and **[the county of Erie]** *counties having a commissioner of elections* and in **[the county of Erie,]** *such counties* the commissioner of elections shall cause to be published in not less than two nor more than four newspapers within such county, one of which shall be a daily newspaper, if a daily newspaper is published in such county, and in any county having one hundred thousand or more inhabitants, adjoining a city having a population of one million or more, in not less than six nor more than ten newspapers, a list of all nominations of candidates for offices

other than town offices to be filled at such election, certified to such officer by the secretary of state, or filed in the office of such officer, *or certified by such officer*. The board of elections of the city of New York shall, within the same time before an election to fill any public office, cause to be published in two newspapers, published in each borough within such city, a list of the nominations of candidates for office to be voted for at such election in such boroughs respectively, which were certified to such board by the secretary of state, or filed in the office of such board, *or certified by such board*, and in the borough of Brooklyn the board of elections shall cause such publication to be made in the newspapers designated as corporation newspapers of said borough.

Such publication shall contain the name and residence, and if a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, and a facsimile of the emblems [or devices] selected and designated as prescribed by this article, to represent and distinguish the candidates of the several political parties or independent bodies. The city clerk of each city except New York and Buffalo, and the board of elections of the city of New York, and in the city of Buffalo the commissioner of elections, shall at least six days before an election of city officers thereof, held at different times from a general election, cause like publications to be made as to candidates for offices to be filled at such city election in a like number of newspapers published in such city.

One of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the largest number of votes in the state for such office; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the next largest number of votes, in the state for such office. The officer or board, in selecting the papers for such publications, shall select those which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the officer or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties. The officer or board shall make

such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the county clerk or other officer find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

§ 75. Section one hundred and thirty-one of the election law is hereby renumbered section one hundred and forty, and is inserted unchanged in article five-b thereof, to read as follows:

§ [131] 140. Lists for town clerks and aldermen. The county clerk of each county, except the county of Erie and those counties which are wholly within the city of New York, and in the county of Erie the commissioner of elections, shall at least six days before election day send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward; containing the name and residence, and if in a city, the street number of residence, and place of business, if any, of all candidates whose certificates of nomination have been filed with *or issued by* him or been certified to him, and the party of other designation, and also a facsimile of the emblem [or device] of each political party or independent body nominating candidates to be voted for by the voters of the respective towns and wards. Such lists shall at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which lists shall be so posted at each polling place.

§ 76. Section one hundred and thirty-two of the election law is hereby renumbered section one hundred and forty-one, and is inserted unchanged in article five-b thereof, to read as follows:

§ [132] 141. Posting town and village nominations. Each town and village clerk shall cause at least ten copies of a like list of all nominations to office filed with him for an election to be held at a time other than the day of the general election, to be conspicuously posted in ten public places in the town or village,

at least one day before the town meeting or village election, one of which copies shall be so posted at each polling place of such town meeting or village election.

§ 77. Section one hundred and thirty-three of the election law is hereby renumbered section one hundred and forty-two, and inserted in article five-b thereof, and is amended to read as follows:

§ [133] 142. Declination of nomination. The name of a person nominated for an [y] office *otherwise than by an official primary election*, shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination, or if nominated by more than one political party or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a [party] nomination filed with the secretary of state, such notification shall be given at least [twenty-five days, and if an independent nomination at least] twenty days, before the election. If the declination be of a [party] nomination filed with a county clerk or the board of elections of the city of New York, or the commissioner of elections of [the] a county [of Erie] *having a commissioner of elections*, or with the city clerk of any city, such notification shall be given at least [twenty days, and if of an independent nomination at least] eighteen days before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination at least seven days before the election; except that a declination of nomination to a town office in towns where town meetings are held at the time of general elections, must be filed in the office of the county clerk, and if in [the] a county [of Erie] *having a commissioner of elections* in the office of the commissioner of elections, within the time required by this section for filing the declination of nomination to a county office, and the county clerk or the said commissioner shall forthwith notify the town clerk in writing of such declination.

The officer to whom such notification is given shall forthwith inform by mail or otherwise the committee, if any, appointed on

the face of such certificate as permitted by section[s one hundred and twenty-one and] one hundred and *thirty-five* [twenty-three] of this article, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise that such nomination has been declined to the several county clerks or other officers authorized by law to prepare official ballots for election districts affected by such declination.

§ 78. Section one hundred and thirty-four of the election law is hereby renumbered section one hundred and forty-three, and inserted in article five-b thereof, and is hereby amended to read as follows:

§ [134] 143. Objections to certificates of nomination. A written objection to any certificate of nomination may be filed with the officer with whom the original certificate of nomination is filed within three days after the filing of such certificate. If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such certificate for the purpose specified in section one hundred and [thirty-five] *forty-four* of this article, and also to each candidate placed in nomination by such certificate. The questions raised by such written objection shall be heard and determined as prescribed in section [one hundred and twenty-five] *forty-four* of this [article] chapter.

§ 79. Section one hundred and thirty-five of the election law is hereby renumbered section one hundred and forty-four, and inserted in article five-b thereof, and is amended to read as follows:

§ [135] 144. Filling vacancies in nominations. If a nomination *made otherwise than by an official primary election* is duly declined, [or the attempt to nominate at a primary results in a tie] or a candidate regularly nominated *otherwise than by an official primary election* dies before election day, or is found to be disqualified to hold the office for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by section[s one hundred and twenty-one and] one hundred and [twenty-three] *thirty-five* of this

article, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy, it shall not be lawful to select a new emblem [or device] but the emblem [or device] chosen to represent or distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated as provided by this section.

§ 80. Section one hundred and thirty-six of the election law is hereby renumbered section one hundred and forty-five, and inserted in article five-b thereof, and is amended to read as follows:

§ [136] 145. Certificates of new nominations. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case provided for in section one hundred and [thirty-seven] *forty-six*, the said certificate shall be filed in the office in which the original certificate was filed at least six days before election, if filed in the office of a town or village clerk; at least fifteen days before the election, if filed with the county clerk or the board of elections of the city of New York or the commissioner of elections of [the] count[y] of Erie] *ies having such commissioners*, or the city clerk of any city; and at least fifteen days if filed with the secretary of state; and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state, he shall, in certifying the nomination to the various county clerks and other officers, insert the name of the person who has been nominated as prescribed by the previous section, instead of that of the candidate nominated by the original

certificate, or, if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officers the name of the person nominated as prescribed by the previous section, and such other facts as are required to be stated in such certificate. When no nomination shall have been originally made by a political party or by an independent body for an office, or when a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nomination or to fill vacancies to nominate or substitute the name of a candidate of another party or independent body for such office; it being the intention of this chapter that when a candidate of one party is nominated and placed on the ticket of another party or independent body, such nominations must be made at the time and in the manner provided for making original nominations by such party or independent body.

§ 81. Section one hundred and thirty-seven of the election law is hereby renumbered section one hundred and forty-six, and inserted in article five-b thereof, and is hereby amended to read as follows:

§ [137] 146. Death of candidate after printing of ballots; official pasters. In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, *or by whom it was issued, and if filed with the secretary of state, the secretary of state shall immediately give the necessary notifications*, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy, and the title of the office for which he was nominated. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type as that used in printing the titles of the offices and the names of the candidates upon the official ballots and shall be of a size as large as and no larger than the space occupied upon the official ballot by the title of the office and the name of the candidate in whose place the candidate named upon the paster has been nominated. If the candidate be one of a group of candidates, such official paster

shall contain the name of the candidate but not the title of the office.

Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall deliver the pasters to the ballot clerks, who are required to affix one of such pasters in the proper place and in a proper manner upon each official ballot before said ballots shall be delivered to a voter. When so affixed to the official ballot, the pasters shall be [considered as being] part of the official ballot. The ballot clerks shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be inclosed in a package of ballots not delivered to voters.

The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.

§ 82. Section two hundred and ninety-two of the election law is hereby amended to read as follows:

§ 292. Filling vacancies in elective offices. A vacancy occurring before October fifteenth of any year in any office authorized to be filled at a general election shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term, or upon the occurrence of a va-



cancy in any elective office which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor may in his discretion make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than [twenty.] *thirty* nor more than forty days from the date of the proclamation.

A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

§ 83. The election law is hereby amended by inserting in article eighteen thereof a new section, to be known as section four hundred and eighty-nine, to read as follows:

§ 489. *Authority of state superintendent of elections. The authority, powers and jurisdiction of the state superintendent of elections for the metropolitan elections district with respect to general elections, as defined by the provisions of this article, are hereby extended to primary elections, so far as such provisions may be applicable; but no deputy superintendent of elections appointed under section four hundred and seventy-three of this chapter shall attend an official primary election for the purpose of voting.*

§ 84. Section five hundred and forty-one of the election law is hereby amended to read as follows:

§ 541. Statement of campaign payments not made through

political committee. Any person, including a candidate, who to promote the success or defeat of a political party, or to aid or influence the election or defeat of a candidate or candidates for public office, or to aid or influence the election or defeat of a candidate for nomination *for public office or election to party position* at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any office, whether public or not, to be voted for at a primary election, or to aid, influence or prevent the nomination of a candidate by petition under the provisions of the primary election law, directly or indirectly, himself or through another person, shall give, pay, expend or contribute, or shall promise to give, pay, expend or contribute, any money or other valuable thing except to the chairman, treasurer or a member of a political committee, or to an agent duly authorized thereto in writing by such committee, or to a candidate or an agent of such candidate authorized by the candidate thereto in writing, or except for personal expenses as hereinafter provided, shall file the statement required by section five hundred and forty-six, and shall be subject to all the duties by this chapter required of a political committee of the treasurer thereof.

§ 85. Section five hundred and forty-two of the election law is hereby amended to read as follows:

§ 542. Personal expenses defined. A candidate for *nomination or election to a public office, or to a party position specifically provided for in this chapter*, or to any office, whether public or not, to be voted for at a primary election; or for nomination at a primary election or convention; or for nomination by petition under the provisions of the election law, and any other person may incur and pay, in connection with such *nomination or election*, his own personal expenses for traveling and for purposes properly incidental to traveling; for writing, printing and preparing for transmission any letter, circular or other publication not issued at regular intervals, whereby he may state his position or view upon public or other questions; for stationery and postage; for telegraph, telephone and other public messenger service, but all such expenses shall be limited to those which are directly incurred and paid by him. A candidate shall in any event file a statement of any contributions made by him, *all his receipts and expenditures in connection with such nomination or election.*

§ 86. Section five hundred and forty-four of the election law is hereby amended to read as follows:

§ 544. Accounting to treasurer or candidate. Whoever, acting as an officer or member or under the authority of a political committee, or under the authority of a candidate for *nomination or election to public office; or for election at a primary to a party position;* or for any office, whether public or not, to be voted for at a primary election; or for nomination at a primary election, or convention; or for nomination by petition under the provisions of the election law, receives any money or its equivalent, or promise of the same, or expends or incurs any liability to pay the same, shall, within three days after demand, and in any event within fourteen days after such receipt, expenditure, promise or liability, give to the treasurer of such committee, or to such candidate if an agent authorized by him, a detailed account of the same, with all vouchers required by this article, which shall be part of the accounts and files of such treasurer or such candidate.

§ 87. Section five hundred and forty-five of the election law is hereby amended to read as follows:

§ 545. Vouchers. Every payment required to be accounted for shall [ , unless the total expense payable to any one person be not in excess of five dollars, ] be vouched for by a receipted bill stating the particulars of expense, and every voucher, receipt or account hereby required shall be preserved for fifteen months after the *primary or general* election to which it relates.

§ 88. Section five hundred and fifty-one of the election law is hereby amended to read as follows:

§ 551. Who may maintain proceedings. Application for an order as prescribed herein may be made by the attorney-general, district attorney, a candidate voted for at [the] a *general or primary* election in respect to which the allegations in such petition may relate, or by any five qualified voters who voted at such election.

§ 89. Section five hundred and fifty-three of the election law is hereby amended to read as follows:

§ 553. Time within which proceedings must be brought. Such petition shall be presented within fifty days after any *general or primary* election in respect to which the allegations of such

petition shall relate if the statement mentioned therein was filed within the twenty days as herein required; but if the statement shall not have been filed within said twenty days, such petition may be presented at any time not more than sixty days after the filing of the statement. The said petition and order to show cause shall be filed, and any order or judgment made in the proceeding based thereon shall be entered in the office of the clerk of the county in which such election was held, if held wholly within a county, or otherwise in such other office as the court, or a justice thereof, shall direct.

§ 90. A new section, to be known as section five hundred and sixty-two, is hereby added to the election law, to read as follows:

§ 562. *Party funds not to be expended for primary purposes. No contributions of money, or the equivalent thereof, made directly or indirectly, to any party, or to any party committee or member thereof, or to any person representing or acting on behalf of a party, or any moneys now in the treasury of any party, or party committee, shall be expended in aid of the designation, nomination or election of any person to be voted for at a primary election, either as a candidate for nomination for public office or for any party position. Except that such funds may be used to pay the expenses of holding any meeting of a party committee.*

§ 91. Sections two, twenty, twenty-one, twenty-three, twenty-four, thirty, forty-five, forty-six, forty-nine, fifty-one, fifty-three, fifty-four, fifty-five, fifty-six, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy-one, seventy-two, seventy-three, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and twenty and one hundred and twenty-one of such chapter are hereby repealed.

§ 92. Party committees now organized and in existence shall continue in existence with all the powers, not inconsistent with this act, which they now have, until the election in September, nineteen hundred and eleven, of the new party committees herein provided for.

§ 92. This act shall take effect January first, nineteen hundred and twelve.

## (No. 33.)

AN ACT constituting the charter of the city of New York.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

## CHARTER OF THE CITY OF NEW YORK.

## CHAPTER I.

## General provisions.

- Article 1. Short title; definitions. (§§ 1-2.)
2. The city; its rights, powers, duties and obligations. (§§ 5-7.)
3. Territorial jurisdiction; boroughs and wards. (§§ 10-12.)

## CHAPTER II.

## City debt.

- Article 1. Bonds and obligations. (§§ 20-43.)
2. Sinking fund commission; sinking funds. (§§ 50-61.)

## CHAPTER III.

## Board of aldermen. (§§ 70-98.)

## CHAPTER IV.

## Board of estimate.

- Article 1. Organization and powers of the board. (§§ 110-117.)
2. Appropriations. (§§ 125-135.)
3. City map. (§§ 140-145.)
4. Franchises. (§§ 150-158.)
5. Public improvements. (§§ 170-177.)

## CHAPTER V.

## The mayor. (§§ 190-197.)

## CHAPTER VI.

## General administrative provisions. (§§ 210-227.)

## CHAPTER VII.

## Officers and employees.

- Article 1. General provisions. (§§ 240-258.)
2. Uniformed force. (§§ 270-280.)
3. Retirement of officers and employees upon annuities. (§§ 290-291.)

**CHAPTER VIII.**

**Department of finance.** (§§ 300-309.)

**CHAPTER IX.**

**Department of city treasury.**

Article 1. The chamberlain. (§§ 320-328.)

2. Receiver of taxes; collector of assessments and arrears. (§§ 340-362.)

3. Sale of tax liens. (§§ 375-399.)

**CHAPTER X.**

**Tax department.** (§§ 410-434.)

**CHAPTER XI.**

**Law department.** (§§ 450-462.)

**CHAPTER XII.**

**Engineering department.** (§§ 470-474.)

**CHAPTER XIII.**

**Department of education.**

Article 1. Board of education. (§§ 480-488.)

2. Local school boards. (§§ 500-503.)

3. Supervising and teaching staffs. (§§ 510-521.)

4. Teachers' retirement fund. (§§ 530-535.)

5. General and special provisions. (§§ 540-552.)

6. College of the City of New York. (§§ 560-566.)

7. Hunter College of the City of New York.  
(§§ 575-581.)

**CHAPTER XIV.**

**Department of water, gas and electricity.**

Article 1. General provisions. (§§ 590-591.)

2. Water supply. (§§ 595-610.)

3. Gas, electricity, steam and pneumatic power.  
(§§ 615-623.)

**CHAPTER XV.**

**Police department.**

Article 1. Organization and jurisdiction of the department.  
(§§ 630-657.)

2. Pension fund. (§§ 660-667.)

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**CHAPTER XVI.****Fire department.**

- Article 1. Organization and jurisdiction of the department. (§§ 680-695.)
2. Fires and their extinguishment. (§§ 700-704.)
  3. Fire prevention. (§§ 710-720.)
  4. Taxation of insurance agents. (§§ 725-728.)
  5. Fire pension fund; life insurance fund. (§§ 730-737.)
  6. Contributions to exempt or veteran volunteer firemen's associations. (§§ 740-744.)

**CHAPTER XVII.****Health department.**

- Article 1. Organization, administration, authority, duties and powers of department. (§§ 750-764.)
2. Enforcement of orders and ordinances. (§§ 770-780.)
  3. Pension fund. (§§ 785-790.)

**CHAPTER XVIII.****Tenement house department.**

- Article 1. Organization of department. (§§ 800-801.)
2. Powers and duties of department. (§§ 805-818.)
  3. Records and reports; miscellaneous provisions. (§§ 825-828.)

**CHAPTER XIX.****Charities department.**

- Article 1. Organization of department; powers and duties. (§§ 840-851.)
2. Ambulance service. (§§ 865-867.)

**CHAPTER XX.****Department of correction. (§§ 880-890.)****CHAPTER XXI.****Department of hospitals.**

- Article 1. Organization of department. (§§ 905-912.)
2. Board of inebriety. (§§ 920-926.)

**CHAPTER XXII.**

**Department of docks and ferries.**

Article 1. General provisions. (§§ 940-949.)

2. Docks. (§§ 955-969.)

3. Ferries. (§§ 980-984.)

**CHAPTER XXIII.**

**Park department.** (§§ 1000-1008.)

**CHAPTER XXIV.**

**Bridge department.** (§§ 1010-1017.)

**CHAPTER XXV.**

**Street cleaning department.**

Article 1. Organization, powers and duties of department.  
(§§ 1030-1035.)

2. Pensions. (§§ 1040-1050.)

**CHAPTER XXVI.**

**Department of licenses.** (§§ 1060-1064.)

**CHAPTER XXVII.**

**Department of markets, weights and measures.** (§§ 1070-1074.)

**CHAPTER XXVIII.**

**Department of architecture.** (§§ 1080-1084.)

**CHAPTER XXIX.**

**Art commission.** (§§ 1090-1097.)

**CHAPTER XXX.**

**Municipal civil service commission.** (§§ 1100-1103.)

**CHAPTER XXXI.**

**Public recreation commission.** (§§ 1110-1115.)

**CHAPTER XXXII.**

**Board of city record.** (§§ 1120-1129.)

**CHAPTER XXXIII.**

**Borough officers.**

Article 1. Borough president. (§§ 1130-1139.)

2. Bureau of buildings. (§§ 1145-1158.)

3. Coroners. (§§ 1160-1169.)



6. "Code of ordinances" means the code of ordinances of the city;

7. "County" means a county wholly included within the city;

8. "Days" means calendar days exclusive of Sundays and full legal holidays;

9. "Department" includes each bureau and division of the department;

10. "Employee" includes each person in the service of the city or a county whose salary or compensation is paid out of the city treasury, other than an officer;

11. "Franchise" means any right, privilege, contract, lease, consent or agreement to use, or involving the use of, the streets, or the subsurface thereof, bridges, tunnels, parks, waters, waterways, rivers, water front property or other public property within or belonging to the city for the construction, equipment, operation or maintenance in, along, upon, across, above or under the surface thereof, of bridges, tunnels, subways, railroads (except railroads constructed or to be constructed under the rapid transit act), street railroads, ferries, telegraph and telephone lines, conduits, pipes and all other means of carriage, transportation or conveyance of persons or property, including water, oil, gas, steam, air, electricity, other form of energy or other fluid, element, commodity, substance or product; but shall not include a license, permit or privilege to operate vehicles or motor vehicles for the transportation of persons or property plying for hire in the streets and not following a fixed route or routes;

12. "General improvement" means an improvement other than a local improvement;

13. "Head of a department" includes the mayor, and the board of aldermen;

14. "Head of a board" means the board;

15. "Head of a body" means the body;

16. "Head of an office" means the incumbent of an elective office who is not a member of a board or body constituting the head of a department or a member of any other board or body except by virtue of his office;

17. "Local improvement" means an improvement the expense of which is assessed, in whole or in part, upon the property deemed benefited;

18. "May" when used to grant authority imports a grant of discretion in the exercise thereof;

19. "Park" includes parkway;

20. "Person" includes a natural person, corporation, company, association, joint-stock association, firm and copartnership;

21. "Port of New York" means the public waters embraced within, adjacent to or opposite the shores of the city and over which the state of New York has jurisdiction;

22. "Public property" includes all property, property rights and interests owned by the city as well as all "streets," "parks," "water front property," and public places and waters within or belonging to the city;

23. "Rapid transit act" means chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants," as amended and supplemented;

24. "Real property" includes all lands, lands under water, water front property, the water of any lake, pond or stream, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal and equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of judgment, mortgage or otherwise;

25. "Sewer" includes sewer, drainage canal, drain and sewage disposal works;

26. "Street" includes street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert, sidewalk and crosswalk, every class of public road, square and place, except marginal wharf;

27. "Street purposes" includes the purposes of a street, park, bridge or tunnel or approach to either, except marginal wharf;

28. "Tenement house" means tenement house as defined by the tenement house law;

29. "Water front property" includes all the wharves, marginal wharves, piers, docks, ferry terminals, bulkheads, slips and basins, and all structures thereon, and the land under water beneath the same, and lands under water below high-water mark, and all easements appurtenant thereto, and upland and made land adjacent to such wharves, piers, docks; bulkheads, slips, basins and lands under water, jurisdiction over which is possessed by or shall have been assigned to the department of docks and ferries by the sinking fund commission, together with the easements, uses, reversions and appurtenances belonging to the same; excepting such upland or made land as constitutes a street;

30. "Water rents" includes the expense of meters, with their installation, connections, setting and maintenance, and all rents, rates and other charges for the supply of water and fines and penalties;

31. "Water supply purposes" includes the purposes of maintaining, preserving and increasing the city's water supply and preventing its contamination or pollution.

## ARTICLE 2.

### THE CITY; ITS RIGHTS, POWERS, DUTIES AND OBLIGATIONS.

#### Section 5. The city continued.

6. Rights, powers, duties and obligations; board of aldermen to exercise reserved powers.

7. Counties; restrictions upon.

Section 5. The city continued. The city of New York, as now constituted, is continued as a municipal corporation in perpetuity under the corporate name of "The City of New York."

§ 6. Rights, powers, duties and obligations; board of aldermen to exercise reserved powers. The city shall have all the rights, powers, grants, privileges, interests, claims, demands and jurisdiction of the city of New York as now constituted, and shall be subject to all the duties, responsibilities, debts and obligations thereof without diminution or enlargement, except as herein otherwise provided. For the redemption and payment of all obligations of the city and the interest thereon the faith and credit of the city are hereby pledged. The board of aldermen shall exercise all of the powers of the city except as otherwise provided in this act.

§ 7. Counties; restrictions upon. This act shall not reinvest a county with the power to levy a tax or make an assessment upon property within the city or to incur an obligation or create a debt.

## ARTICLE 3.

### TERRITORIAL JURISDICTION; BOROUGHs AND WARDS.

#### Section 10. Territorial jurisdiction.

11. Boroughs.

12. Wards.

Section 10. Territorial jurisdiction. The city has administrative power and governmental jurisdiction over all portions of the state

of New York comprised within the boundaries of the counties of New York, Kings, Queens and Richmond, including the public waters therein and adjacent thereto. The local administration and government of the people and property within such territory shall be in and be exercised for all purposes by the city.

§ 11. Boroughs. The city is divided into five boroughs, designated Manhattan, Bronx, Brooklyn, Queens and Richmond, respectively, the boundaries whereof are as follows:

1. The borough of Manhattan consists of all that portion of the county of New York known as Manhattan island, Nuttin or Governor's island, Bedloe's island, Bucking or Ellis island, the Oyster islands, Blackwell's island, Randall's island and Ward's island;

2. The borough of Bronx consists of all that portion of the county of New York lying northerly or easterly of the borough of Manhattan, between the Hudson river and the East river or Long Island sound, including the several islands belonging to the county of New York not included in the borough of Manhattan;

3. The borough of Brooklyn consists of Kings county;

4. The borough of Queens consists of Queens county;

5. The borough of Richmond consists of Richmond county.

§ 12. Wards. The number and boundaries of the wards into which each borough is divided may be changed by ordinance, but until so changed shall continue as now constituted.

## CHAPTER II.

### CITY DEBT.

Article 1. Bonds and obligations. (§§ 20-43.)

2. Sinking fund commission; sinking funds. (§§ 50-61.)

### ARTICLE 1.

#### BONDS AND OBLIGATIONS.

Section 20. Statutes and ordinances continued.

21. Corporate stock.

22. Purposes for which corporate stock may be issued.

23. Supplies for current use and operating expenses not to be paid for from corporate stock.

24. Issue of corporate stock; how authorized.

25. Rapid transit railroads; issue of corporate stock for.

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- Section 26. Board of aldermen; action as to corporate stock.  
27. Assessment bonds; provisions governing issue.  
28. Street improvement fund; composition.  
29. Street improvement fund; payments from.  
30. Fund for street and park openings; composition.  
31. Fund for street and park openings; payments from.  
32. Evidences of temporary indebtedness.  
33. Purposes for which special revenue bonds may be issued.  
34. Notes issued in anticipation of the sale of corporate stock or assessment bonds.  
35. General fund bonds; how issued.  
36. General fund bonds issued to sinking fund commission; redemption.  
37. General fund bonds; deficiencies in redemption fund, how covered.  
38. Bids for obligations.  
39. Interest on obligations.  
40. Exemption from taxation.  
41. Registration of obligations.  
42. Funding of bonded debt.  
43. Debt limit.

Section 20. Statutes and ordinances continued. All statutes and ordinances creating any debt of the municipal or public corporations united and consolidated to form the city of New York, including counties, or for the payment of such debts or respecting the same, shall remain in full force and effect, and all pledges, taxes, assessments, sinking funds and other revenue and securities for the payment of the debts of such municipal and public corporations shall be in good faith enforced, maintained and carried out by the city.

§ 21. Corporate stock. All bonds issued subsequent to January first, eighteen hundred and ninety-eight, or issued hereafter by the city, except general fund bonds, assessment bonds, and evidences of temporary indebtedness issued in anticipation of the collection of taxes or to be redeemed out of the tax levy of the year next succeeding the year of their issue, shall be known as "corporate stock of the city of New York." Corporate stock shall be in the form designated by the comptroller, signed by the comptroller and the mayor, sealed with the common seal of the city and attested by the city clerk. Corporate stock shall be

issued in coupon or registered form and in denominations prescribed by the sinking fund commission. Corporate stock shall be conditioned to be paid in gold coin or in legal currency of the United States at the option of the sinking fund commission, and shall mature at a time to be fixed by such commission which shall be not more than fifty years from the date of issue. The sinking fund commission may provide that corporate stock shall be redeemable before maturity at its face value with accrued interest at the option of the commission after a date which shall be stated in the certificates. When the comptroller so determines, corporate stock may be made payable in the currency of a country other than the United States and the sales thereof shall be entered in the books of the finance department in terms of the currency of the United States and of such foreign currency.

§ 22. Purposes for which corporate stock may be issued. Corporate stock may be issued hereafter only to provide means to pay for

1. Permanent improvements, including the materials, supplies, implements and plant and the salaries or compensation of officers and employees determined by the board of estimate to be properly payable as a part of the expense thereof;
2. Acquisition of real property;
3. Acquisition of rights in and to franchises;
4. Acquisition of lands and easements for rapid transit railroads, their construction, equipment and other purposes specified in the rapid transit act;
5. Redemption at maturity or refunding of corporate stock or other stock or bonds, the payment of which is not otherwise provided for;
6. Personal property of durable character;
7. The city's share of the cost of an improvement, the expense of which is assessed in part upon property deemed benefited;
8. The repavement of streets, the entire expense of which is to be paid by the city;
9. Assessments imposed upon real property of the city;
10. Deficiencies caused by the vacating, setting aside or reducing of an assessment for an improvement, the expense of which shall have been assessed in whole or in part upon property deemed benefited;
11. Uncollectible assessments for which assessment bonds shall have been issued;

12. Demolition or removal of buildings in street opening proceedings;

13. Commemorative statues and monuments.

Corporate stock authorized or required to be issued by any statute now in force, but not heretofore issued, may be hereafter issued.

§ 23. Supplies for current use and operating expenses not to be paid for from corporate stock. Except as otherwise provided in this act, proceeds of the sale of corporate stock shall not be expended for the purchase of personal property perishable in character or in the nature of a supply for current use or for the payment of operating expenses. Operating expenses include expenses for maintenance, repairs, current operation and administration, and exclude expenditures for betterments, improvements and acquisition of property of a permanent nature; but expenditures made or liabilities incurred by the board of water supply, the aqueduct board, and, prior to January first, nineteen hundred and ten, by the department of docks and ferries shall not be considered operating expenses.

§ 24. Issue of corporate stock; how authorized. Corporate stock shall be issued when authorized by the board of estimate, except that in each of the following cases the concurrence of the board of aldermen shall be necessary to authorize the issue of corporate stock in any one calendar year beyond the amount specified therein:

1. For dock and ferry purposes, five million dollars;
2. For the construction and equipment of school buildings and acquisition of school sites, three million five hundred thousand dollars;
3. For repaving streets, three million dollars;
4. For the department of water, gas and electricity for water supply purposes, two million dollars;
5. For the permanent improvement of parks, five hundred thousand dollars.

§ 25. Rapid transit railroads; issue of corporate stock for. Upon the execution of a contract made pursuant to the rapid transit act the public service commission may, from time to time, request the board of estimate for the authorization of such corporate stock as the commission may require, or the commission may request the board for the authorization of the full amount of corporate stock needed to pay the entire estimated expense of

executing the contract. If the commission make requisition for the entire amount the comptroller shall, after the issue of such stock shall have been authorized, endorse on the contract his certificate that funds are available for the entire contract and the stock may be issued from time to time thereafter in such amounts as may be necessary to meet the requirements of the contract. No other certificate of the comptroller shall be necessary to make the contract binding on the city.

§ 26. Board of aldermen; action as to corporate stock. After a proposition to issue corporate stock requiring the concurrence of the board of aldermen shall have been approved by the board of estimate, a certified copy of the resolution of approval shall be transmitted to the board of aldermen which may, by unanimous consent, immediately consider the same, or shall fix a day not more than two weeks after receipt thereof for its consideration. The board of aldermen shall on the day so fixed proceed with the consideration of the proposition and may continue and adjourn such consideration from time to time. Within four weeks after the copy of the resolution shall have been received by the board of aldermen a final vote shall be taken upon the proposition by ayes and noes. If a majority of all the members of the board of aldermen vote against such proposition it shall be deemed to be rejected by the board of aldermen. If a majority of all the members do not vote against such proposition within the four weeks above limited, at the expiration of said period it shall be deemed to have been concurred in by the board of aldermen. The concurrence of the board of aldermen, whether by an affirmative vote or by failure of a majority of all the members of the board to vote against the same, shall be subject to the action of the mayor as in the case of an ordinance, and in the event of his disapproval to the subsequent action of the board as in the case of his disapproval of an ordinance.

§ 27. Assessment bonds; provisions governing issue. The comptroller, when authorized by the board of estimate, may issue assessment bonds to provide the means necessary to pay all expenses incurred or to be incurred on account of regulating, grading, curbing, flagging, paving or otherwise improving streets, or on account of opening, closing or discontinuing streets or parks, constructing sewers, or on account of the acquisition of the right of way required for sewers or of real property required for bridges or tunnels or approaches to either, wholly or partly within



the city, and all other work ordered to be done by contract, the expense of which is to be paid in whole or in part by assessment upon property deemed benefited, and the cost and expenses of proceedings therefor; and also to provide amounts necessary to meet deficiencies caused by delay in collecting arrears of assessments or to replenish the fund into which such assessments are payable. Assessment bonds shall be in the form designated by the comptroller and shall be signed by the comptroller and the mayor, sealed with the common seal of the city and attested by the city clerk, and shall mature at a time to be fixed by the sinking fund commission not more than ten years from the date of issue.

§ 28. Street improvement fund; composition. The fund known as the "street improvement fund" is continued and shall consist of

1. The cash balance now in the fund;
2. The sums required by law to be paid into the fund;
3. The moneys, including premiums, received from the sale of assessment bonds issued to pay the cost of regulating, grading, curbing, flagging, or paving and otherwise improving streets, of constructing sewers, of the expense of plans and surveys, and of all improvements the expense of which is to be collected by assessment, other than moneys belonging to the fund for street and park openings;
4. The moneys, including premiums, received from the sale of assessment bonds issued to meet deficiencies caused by delay in collecting arrears of assessments payable into the fund;
5. The moneys, not expressly pledged to a sinking fund, collected for or on account of assessments for any such improvement;
6. The moneys, excluding premiums, received from the sale of corporate stock issued to provide for the payment of the portion of the cost of any such improvement required to be paid by the city;
7. The moneys, excluding premiums, received from the sale of corporate stock issued to pay the amount which the city is required to pay by reason of the vacating, setting aside or reducing of an assessment for an improvement which, if collected, would have been paid into the fund;
8. The moneys, excluding premiums, received from the sale of corporate stock issued to pay uncollectible assessments which, if collected, would have been paid into the fund;

9. The moneys, including premiums, received from the sale of assessment bonds issued to replenish the fund.

§ 29. Street improvement fund; payments from. Bonds heretofore issued redeemable in the first instance out of the street improvement fund and assessment bonds hereafter issued for the purposes thereof shall be paid therefrom.

§ 30. Fund for street and park openings; composition. The fund known as the "fund for street and park openings" is continued and shall consist of

1. The cash balance now in the fund;

2. The sums required by law to be paid into the fund;

3. The moneys, including premiums, received from the sale of assessment bonds issued to pay the cost and expenses of opening, closing or discontinuing streets or parks, acquiring title to real property for bridges or tunnels or approaches to either, wholly or partly within the city, of the acquisition of the right of way required for sewers, of plans and surveys, and of proceedings therefor, including fees of commissioners;

4. The moneys, including premiums, received from the sale of assessment bonds issued to meet deficiencies caused by delay in collecting arrears of assessments payable into the fund;

5. The moneys, not expressly pledged to a sinking fund, collected for or account of assessments for any such improvement;

6. The moneys, excluding premiums, received from the sale of corporate stock issued to provide for the payment of the portion of the cost of any such improvement required to be paid by the city;

7. The moneys, excluding premiums, received from the sale of corporate stock issued to pay the amount which the city is required to pay by reason of the vacating, setting aside or reducing of an assessment for an improvement which, if collected, would have been paid into the fund;

8. The moneys, excluding premiums, received from the sale of corporate stock issued to pay uncollectible assessments which, if collected, would have been paid into the fund;

9. The moneys, including premiums, received from the sale of assessment bonds issued to replenish the fund.

§ 31. Fund for street and park openings; payments from. From the fund for street and park openings shall be paid all damages awarded and confirmed in proceedings taken to open, close or discontinue any street or park, or to acquire title to real

§ 35. General fund bonds; how issued. The city may issue bonds, to be called "general fund bonds." They shall be subject to all provisions of law relating to corporate stock, except as otherwise provided in this act. The sinking fund commission in each year until the maturity of all bonds and stock issued by the city as constituted prior to January first, eighteen hundred and ninety-eight, and redeemable from "the sinking fund of The City of New York for the redemption of the city debt" shall set apart out of the revenues and incomes of said sinking fund, except the income and accumulation thereof derived from assets held by said sinking fund on the first day of January, nineteen hundred and three, and except also the income and accumulation thereof derived from the amount to be thus annually set apart, a sum which, with the accumulation of interest thereon, together with the assets, earnings and accumulations of said sinking fund will be sufficient to redeem at maturity all bonds and stock redeemable from said fund. At least five weeks before the annual meeting of the board of aldermen in each year for the purpose of determining the rate of taxation the board of estimate may certify to the board of aldermen the amount, as estimated by it, of income from all sources of said sinking fund during the then calendar year and the amount required by this section to be set apart for such calendar year out of such revenues and income for the redemption of bonds and stock to which said fund is pledged. If in any year the estimated amount of revenues or income of said fund, excepting the income and accumulation thereof derived from the assets held by said fund on the first day of January, nineteen hundred and three and from the amounts annually set apart for the redemption of bonds and stock as by this section required, shall exceed the amount required to be set apart in such year the board of estimate may, at the time of making such certificate to the board of aldermen, determine to invest the whole or any part of such excess in general fund bonds for account of "the sinking fund of The City of New York for the redemption of the city debt"; but such investment shall not be made in any year until the amount required by this section to be set apart for such year shall have been set apart. The board shall then notify the comptroller of the amount, if any, which it shall have determined to invest in general fund bonds during the current year; the comptroller thereupon, upon receipt of the money to be invested, shall issue and deliver to the board for account of said fund general fund bonds of the face value of the money received; and shall

forthwith pay into the city treasury the money received which shall be a part of the general fund for the reduction of taxation.

§ 36. General fund bonds issued to sinking fund commission; redemption. General fund bonds shall be issued to the sinking fund commission only, except as otherwise provided in this act, for account of "the sinking fund of The City of New York for the redemption of the city debt". They shall be valid and binding obligations of the city and be subject to all provisions of law applicable to corporate stock not inconsistent with this section. They shall bear such rate of interest as shall be determined by the commission. Such interest shall be provided for in the annual budget or paid from the general fund. Such bonds shall be due and payable at such times as shall be determined by the commission, but not earlier than the year nineteen hundred and twenty-nine. When all bonds and stock of the former city of New York redeemable from said fund shall have been paid, all general fund bonds therein shall be canceled.

§ 37. General fund bonds; deficiencies in redemption fund, how covered. If in any year it appear to the sinking fund commission that the revenues and income of the fund applicable thereto will be insufficient to provide the sum required to be set apart in such year, the board shall include in the annual estimate for the ensuing year a sum sufficient, when added to the estimated revenues and income for that year, to make good the deficiency; and the board of aldermen shall not reduce or reject such item. If it be necessary to provide for the redemption of bonds and stock redeemable from said sinking fund, the commission may purchase from said sinking fund for account of any other sinking fund or may sell at public sale to the highest bidder such amount of general fund bonds then held by "the sinking fund of The City of New York for the redemption of the city debt" as may be necessary for that purpose. Whenever such general fund bonds are so purchased for other sinking funds or are so sold, they shall be a charge upon "the sinking fund of The City of New York" and there shall be raised annually by taxation and paid into "the sinking fund of The City of New York" a sum which, with the accumulation of interest thereon, shall be sufficient to redeem said bonds at maturity; but so long as the general fund bonds are held in "the sinking fund of The City of New York for the redemption of the city debt" no such annual sum shall be raised for their redemption.

§ 38. Bids for obligations. All obligations hereafter issued, except revenue bonds, certificates of indebtedness and other evidences of temporary indebtedness, notes and such as may be purchased for investment of a sinking fund, shall be offered at public sale by the comptroller and bids therefor shall be invited by public advertisement published not less than ten days. The board of estimate may authorize the comptroller to issue notes, revenue certificates or special revenue certificates without public advertisement. No bid for less than the par value of such obligations shall be received. Every bidder shall at the time of bid deposit with comptroller in cash or by certified check drawn to the order of the comptroller upon a trust company or a national or state bank a sum to be fixed by the comptroller, not exceeding two and one-half per centum of the par value of the obligations bid for. Deposits other than those made by bidders to whom awards of such obligations are made shall be returned to the bidders within three days after awards shall have been made. Bids "for all or none" of the obligations offered shall be received only from persons who shall also have bid for all or some of the obligations. Bidders may be required to accept part of the obligations bid for by them at the prices specified in their bids, if such bids be not made "for all or none." All bids received shall be opened by the comptroller in the presence of at least two other members of the board of estimate. Awards of obligations offered for sale shall be made by the comptroller to the highest bidders; and if the highest bidders fail to pay the amounts bid less the amounts deposited with their bids within five days after service upon them of written notice of such awards, the amounts of such deposits shall be forfeited to and retained by the city as liquidated damages and shall be paid into the sinking fund of the city of New York. The comptroller may, with the approval of the board of estimate, reject any or all bids received. If a part of the obligations offered fail to be sold, the comptroller may sell the same at private sale at not less than par value, with accrued interest, if any. All sums received from the sale of corporate stock in excess of the par or face value thereof shall be paid into the general fund for the reduction of taxation.

§ 39. Interest on obligations. The interest on corporate stock and on all other obligations of the city, except notes, revenue bonds, certificates of indebtedness and other evidences of temporary indebtedness, shall be at such rate and shall be payable

quarterly or semi-annually as may be prescribed by the sinking fund commission and payable at such place or places as may be fixed by the comptroller at the time of issue. The rate of interest on notes, revenue bonds, certificates of indebtedness or other evidences of temporary indebtedness shall be fixed by the comptroller and the interest may be made payable at the date of maturity or at such other time as the comptroller may determine.

§ 40. Exemption from taxation. All obligations issued or to be issued by the city shall be free and exempt from all taxation.

§ 41. Registration of obligations. Subject to such rules and regulations as the comptroller may prescribe, upon the application of the owner in person or by attorney, an unregistered obligation, other than a note, revenue bond or special revenue bond, may be surrendered for registry to the comptroller who shall issue in place thereof a registered obligation of the same class in the manner and form as if originally issued as a registered obligation. The obligation so surrendered with attached coupons, if any, shall be canceled by the comptroller. A registered obligation may be surrendered for discharge from registry to the comptroller who shall cancel the same and issue an unregistered obligation of the same class in place thereof. A registered obligation may be transferred upon surrender of the obligation, accompanied by a written instrument of transfer in form approved by the comptroller, executed by the registered holder, and thereupon a new registered obligation in the same terms and for an equivalent sum, specifying the obligation in place of which it is issued, shall be issued to the transferee.

§ 42. Funding of bonded debt. The sinking fund commission may call in, pay and redeem any obligation of the city except a note, revenue bond, certificate of indebtedness or other evidence of temporary indebtedness; and for such purpose may, with the approval of the board of estimate, direct the comptroller to sell or exchange therefor obligations of the same class. Obligations so called in, paid and redeemed shall be canceled forthwith.

§ 43. Debt limit. The comptroller shall, whenever so required by the board of estimate, prepare and submit to said board a statement showing in detail indebtedness incurred by the city for any rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, with the dates of maturity of such indebtedness, the terms of any and all agreements and contracts

made by or in behalf of the city with respect to such investment, the gross revenue received therefrom, the interest paid and to be paid by the city on said indebtedness, the annual instalments necessary for the amortization thereof and the current net revenue derived from such investment. The comptroller shall also, whenever required by the board of estimate, prepare and submit to said board a statement showing in detail debt incurred by the city after the first day of January, nineteen hundred and ten, for a public improvement owned or to be owned by the city, with the dates of maturity of such indebtedness, the terms of any and all agreements and contracts made by or in behalf of the city with respect to such improvement, the gross revenue received therefrom, the interest paid and to be paid by the city on said debt, the annual instalments necessary for the amortization thereof, the necessary allowance for repairs and maintenance which should be made and for which the city is liable and the current net revenue derived from such improvement. The comptroller and other public officers and boards shall furnish such other and further data and information in their possession with respect to such rapid transit or dock investment and such public improvement as shall be required by the board to enable it to ascertain as to such rapid transit or dock investment for which indebtedness was incurred prior to the first day of January, nineteen hundred and ten, the proportion of the interest and amortization instalments of such indebtedness which the current net revenue received by the city from such investment is sufficient to meet and, as to debt incurred after the first day of January, nineteen hundred and ten, for a public improvement, owned or to be owned by the city, whether such public improvement yield to the city current net revenue in excess of the interest on said debt and of the annual instalments necessary for its amortization, after making the necessary allowance for repairs and maintenance for which the city is liable.

The city acting by said board may present to the appellate division of the supreme court in the first judicial department a verified petition, setting forth the facts and praying for a determination of the amount of debt which may be excluded in ascertaining the power of the city to become otherwise indebted under the provisions of section ten of article eight of the constitution of the state of New York; and jurisdiction is hereby conferred upon said appellate division to make such determination. The petition or answer of the city shall be presumptive evidence of the material facts stated therein.

After the filing of the petition the board shall cause to be published not less than once a week for two weeks in the City Record and in six daily newspapers of general circulation published in the city to be designated by the said appellate division, at least one of which shall be published in the borough of Brooklyn, a notice that an application will be made to the appellate division on a day therein specified which shall be not less than two weeks nor more than five weeks from the date of the first publication of the notice for the determination prayed for in the petition. In the notice published in the City Record as aforesaid the petition shall be printed at length.

On the return day of the notice parties in interest including taxpayers and owners or holders of bonds or corporate stock of the city may appear in person or by attorney and file with the appellate division a verified answer to the petition aforesaid.

If, upon the filing of an answer as aforesaid, it appear to the appellate division that there is a material issue of fact to be determined, the appellate division shall thereupon by order direct that on a day therein appointed one of the justices of the supreme court sitting without a jury in the county of New York shall take the evidence thereon, proceeding from day to day. The evidence so taken shall be reported forthwith to the appellate division.

On the return day of the notice aforesaid, or if evidence be taken, then after the report thereon by the justice taking it, the appellate division shall appoint a time as early as may be at which it will hear argument and thereupon the parties shall file and serve their briefs in accordance with the directions of the appellate division. At the argument each party shall be heard.

After hearing the allegations and proofs of the parties the appellate division shall with all convenient speed make its decision, stating separately the facts found and the conclusions of law. Or if no evidence be ordered to be taken, the appellate division may on the return day of the notice, or as soon thereafter as may be, make its decision, stating separately the facts found and the conclusions of law. Upon making the decision aforesaid the appellate division shall make a final order determining the amount of indebtedness which may be excluded in ascertaining the power of the city to become otherwise indebted under the provisions of section ten of article eight of the constitution of the state.



Upon the making of an order by said court determining that all the indebtedness incurred by the city for a rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, or that indebtedness incurred by said city for a public improvement after the first day of January, nineteen hundred and ten, shall be excluded in ascertaining the power of the city to become otherwise indebted, such indebtedness shall be wholly excluded in ascertaining the power of the city to become otherwise indebted; and upon the making of an order by said court determining that a part only of the indebtedness incurred by the city for any rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, shall be so excluded, the amount determined by said court in said order to be so excluded shall be excluded in ascertaining the power of the city to become otherwise indebted, provided, however, that any increase in the debt-incurring power of the city which shall result from the exclusion of debt incurred prior to the first day of January, nineteen hundred and ten, shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes.

The determination of the appellate division herein provided for shall not be subject to collateral attack, appeal or review of any kind whatsoever, but shall be in all respects final and conclusive upon all persons and corporations whatsoever, and the proceeding herein provided for shall be the sole and exclusive method of determining the amount of indebtedness incurred by the city for rapid transit or dock investment prior to the first day of January, nineteen hundred and ten, and the amount of debt incurred for a public improvement after the first day of January, nineteen hundred and ten, which may be excluded in ascertaining the power of the city to become indebted under the provisions of section ten of article eight of the constitution of the state.

At any time, and from time to time, after the determination aforesaid, the said appellate division must entertain an application made by the city and, in its discretion and upon such terms as shall seem to it to be advisable and upon a verified petition containing the matters hereinbefore specified with such other or further matters as it may require may grant leave to a taxpayer or an owner of bonds or corporate stock of said city to give notice of an application for a subsequent determination of the indebtedness which may be excluded as aforesaid. Upon such application the

proceedings shall be the same as herein directed in the case of an original application.

## ARTICLE 2.

## SINKING FUND COMMISSION; SINKING FUNDS.

Section 50. Sinking fund commission.

51. Sinking funds continued.

52. Sinking funds enumerated.

53. Sinking fund for the redemption of the city debt not to be impaired.

54. Provision for payment of certain obligations.

55. The sinking fund of the city of New York.

56. The sinking fund for payment of interest.

57. Payment of principal of other sinking funds into sinking fund of the city of New York.

58. Replenishment of sinking funds.

59. Sinking fund investment; cancellation of holdings.

60. Sinking funds; pledges to be contracts.

61. Alteration of rates prohibited; general fund.

Section 50. Sinking fund commission. The sinking fund commission shall be composed of the mayor, comptroller, chamberlain, president of the board of aldermen and chairman of the finance committee of the board of aldermen. It shall be the successor of the commissioners of the sinking fund of the city of New York as heretofore constituted with the powers and duties provided by this act. The assets and accounts of each sinking fund shall, except as herein otherwise provided, be kept separate and distinct and shall be administered by the commission as an independent trust pursuant to the provisions of law or ordinance relating thereto to the end of preserving inviolate the rights of holders of the obligations payable therefrom.

§ 51. Sinking funds continued. All existing sinking funds are hereby continued and the funds, moneys, revenues and assets pledged and appropriated to each shall continue to be pledged and appropriated thereto as if this act had not been passed until such time as the obligations payable therefrom shall have been canceled, discharged and redeemed. Wherever the duty shall have been imposed upon boards or officers of the several municipal or public corporations or parts thereof consolidated to form the city or of the counties of Kings and Richmond to raise by taxation

annually or otherwise, amounts of money for sinking fund purposes or for the redemption of or payment of interest on bonded indebtedness for which the city is liable, the proper officers of the city shall in like manner raise such amounts by taxation.

§ 52. Sinking funds enumerated. Each of the following sinking funds shall continue to be administered by the commission:

1. The "sinking fund of The City of New York for the redemption of the city debt;"
2. The "sinking fund of The City of New York for the payment of interest;"
3. "The sinking fund for the redemption of the city debt number two;"
4. "The sinking fund of the city of Brooklyn;"
5. "The water sinking fund of the city of Brooklyn;"
6. "The sinking fund of Long Island City for the redemption of revenue bonds;"
7. "The sinking fund of Long Island City for the redemption of water bonds;"
8. "The sinking fund of Long Island City for the redemption of fire bonds;"
9. "The sinking fund of The City of New York;"
10. "The water sinking fund of The City of New York;"
11. Existing sinking funds, if any, for the redemption of corporate stock issued for purposes of rapid transit.

The commission may establish and maintain sinking funds required by section ten of article eight of the constitution to be established and maintained to entitle the city to have indebtedness excluded in ascertaining its power to become otherwise indebted.

§ 53. Sinking fund for the redemption of the city debt not to be impaired. The commission shall not use or apply the revenues of the sinking fund of the city of New York for the redemption of the city debt so as to impair the security of the fund for the payment of the obligations of the corporation known as the mayor, aldermen and commonalty of the city of New York; and the bonds and stocks payable from said fund shall be a preferred charge thereon until paid. All preferred bonds and stocks of the mayor, aldermen and commonalty of the city of New York shall be paid and redeemed from such sinking fund. The "consolidated stock" of the mayor, aldermen and commonalty of the city of New York, issued pursuant to the provisions of section one hundred and seventy-six of chapter four hundred and ten of the laws

of eighteen hundred and eighty-two, after full provision for the preferred bonds and stocks, shall be a charge upon such sinking fund, and any part of the bonded debt of said corporation due and not exchanged for or redeemed from the proceeds of said consolidated stock as provided by law may be paid from such sinking fund, provided such payment shall not in any way impair the preferred claims thereon.

§ 54. Provision for payment of certain obligations. For the payment of all bonds and stocks by the mayor, aldermen and commonalty of the city of New York issued after June third, eighteen hundred and seventy-eight and prior to January first, eighteen hundred and ninety-eight, there shall annually be set apart or paid over to the sinking fund commission and invested by it a sum estimated and certified by the comptroller to be sufficient, with the accumulation of interest thereon, to discharge the said bonds or stocks when payable. The annual sum so to be set apart or paid over and invested, except so far as it relates to bonds issued to provide for the supply of water, shall be set apart out of the surplus income, revenues and accumulations of the sinking fund for the redemption of the city debt after fully providing for the payment of the preferred stocks and bonds and the consolidated stock of the mayor, aldermen and commonalty of the city of New York.

§ 55. The sinking fund of the city of New York. The sinking fund of the city of New York as the same now exists shall continue to have for its sole purpose the redemption of corporate stock, except corporate stock issued to provide for the supply of water, issued since the first day of January, eighteen hundred and ninety-eight, for the payment of which there is no other provision than taxation; and for the redemption of such corporate stock there shall be included annually in the budget and paid into such sinking fund an amount, to be estimated and certified by the comptroller, which, with the accumulations of interest thereon, will be sufficient to redeem such stock at maturity; provided, however, that there shall be deducted from such amount the sum received annually from the operation of a rapid transit railroad applicable to the amortization of the indebtedness incurred for such railroad subsequent to January first, nineteen hundred and ten.

§ 56. The sinking fund for payment of interest. The fund known as the sinking fund of The City of New York

for the payment of interest accruing upon the debt of the city of New York as it existed prior to January first, eighteen hundred and ninety-eight, until the same be redeemed, shall, after providing for the interest on the bonds and stocks now payable therefrom as provided by law, be transferred to the sinking fund of The City of New York for the redemption of the city debt.

§ 57. Payment of principal of other sinking funds into sinking fund of the city of New York. Except as provided in the preceding section, when the obligations which are payable from a sinking fund shall have been fully discharged, the revenues pledged to such sinking fund shall thereafter be paid into the general fund for the reduction of taxation, and the commission shall cancel all obligations of the city then held by such sinking fund, except such as shall have been excluded in ascertaining the power of the city to become otherwise indebted under the provisions of section ten of article eight of the constitution and transfer the remaining assets thereof, including the obligations of the city so excepted, to the sinking fund of The City of New York.

§ 58. Replenishment of sinking funds. When in any year the revenues or income of a sinking fund will, in the opinion of the commission, be less than the amount required to pay the interest upon the obligations redeemable therefrom and to provide the annual instalment necessary for their amortization, the commission shall include the amount of such estimated deficit in the annual estimate for the next succeeding calendar year and such item shall be included in the budget; and in case the sum so appropriated be insufficient for such purpose the deficit shall in like manner be included in the estimate and budget of the ensuing year. In either case the amount so included in the budget shall be paid to the commission not later than the first day of November following.

§ 59. Sinking fund investment; cancellation of holdings. The commission may invest the assets of a sinking fund in any obligation for which the city is liable. The commission may in its discretion cancel from time to time, but not before maturity, an obligation for which the city is liable held by the sinking fund from which the same is redeemable. If, however, an obligation be held by a sinking fund other than the one from which it is redeemable, it shall at maturity be paid in the same manner as if held by a private creditor.

§ 60. Sinking funds; pledges to be contracts. Between the city and the holders of the obligations for which it is liable there is hereby declared to be a contract that the funds and revenues pledged to a sinking fund shall be accumulated and applied only to the purposes of such sinking fund until all obligations payable therefrom have been fully paid and redeemed.

§ 61. Alteration of rates prohibited; general fund. The city shall not alter a rate or charge affecting any item or source of revenue of a sinking fund or of the general fund for the reduction of taxation which may tend to a diminution of its receipts, except that the city may exempt places of public worship from the payment of fees for the construction of vaults under streets; and all the revenues of the city not specifically appropriated shall, when received into the city treasury, be credited to the general fund for the reduction of taxation except proceeds of policies of insurance authorized by the sinking fund commission to be applied to repair, replace or reconstruct property injured or destroyed and covered by such insurance.

### CHAPTER III.

#### BOARD OF ALDERMEN.

Section 70. Power vested in board of aldermen; exceptions.

71. Composition of board.

72. Election of president of the board of aldermen and aldermen.

73. Vacancies; how filled.

74. Salaries.

75. Expulsion from office.

76. Vice-chairman.

77. Aldermanic districts.

78. Existing districts continued.

79. Meetings.

80. Special meetings.

81. Aldermanic procedure.

82. City clerk; sergeant-at-arms and assistants.

83. City clerk; duties as clerk of the board of aldermen.

84. City clerk; general duties.

85. Deputies and subordinates.

86. Legislative powers of the board.

87. Ordinances.

**Section 88. Mayor's action on ordinances.**

- 89. Mayor's failure to act.
- 90. Present ordinances continued.
- 91. Ordinances to be codified and published.
- 92. Aldermen; county functions.
- 93. Interrogation of officers and employees.
- 94. Power of investigation.
- 95. Street obstructions.
- 96. Ordinances affecting licenses or permits.
- 97. Restrictions of power.
- 98. Commissioners of deeds.

**Section 70. Power vested in board of aldermen; exceptions.**  
The legislative power of the city, except as otherwise provided in this act, shall be vested in the board of aldermen.

§ 71. Composition of board. The board of aldermen shall be composed of one alderman from each aldermanic district. The phrase "all the members of the board of aldermen" or its equivalent wherever used in this act means all aldermen elected to the board. Each borough president shall be entitled to a seat in the board of aldermen and to be heard upon any matter relating to his borough, but shall have no vote.

§ 72. Election of president of the board of aldermen and aldermen. The president of the board of aldermen shall be elected in the same manner and at the same time as the mayor, and for a term of four years. At the annual election in the year nineteen hundred and eleven, and every two years thereafter, a member of the board shall be elected in and for each aldermanic district. The board shall be the judge of the elections, returns and qualifications of aldermen, subject, however, to review on certiorari.

§ 73. Vacancies; how filled. A vacancy in the office of president of the board shall be filled by appointment by the board by a majority vote of all the members thereof. The term of office of the person so appointed shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election happening not less than thirty days after such vacancy occurs. A vacancy in the office of alderman shall be filled for the unexpired term by the appointment, by a majority vote of all the remaining aldermen representing the borough containing the aldermanic district in which the vacancy occurs, of a

person of the same political party as the member whose place has become vacant. At the meeting for such appointment the president of the borough shall preside but he shall have no vote.

§ 74. Salaries. The salary of the president of the board of aldermen shall be seven thousand five hundred dollars a year, of the chairman of the finance committee five thousand dollars a year and of each other alderman two thousand dollars a year.

§ 75. Expulsion from office. An alderman may be expelled upon charges, after a hearing by the board of aldermen, by a two-thirds vote of all the members of the board, subject, however, to review on certiorari. An alderman so expelled shall cease to be a member of the board.

§ 76. Vice-chairman. The board shall appoint one of its members vice-chairman. When the president of the board be absent or acting as mayor, or while a vacancy exist in the office, the vice-chairman shall possess his powers, perform his duties and be a member of every board of which the president is a member by virtue of his office.

§ 77. Aldermanic districts. There shall be seventy-three aldermanic districts, of which

Thirty-three shall be wholly within the borough of Manhattan;

Eight shall be wholly within the borough of Bronx;

Twenty-four shall be wholly within the borough of Brooklyn;

Five shall be wholly within the borough of Queens;

Three shall be wholly within the borough of Richmond.

§ 78. Existing districts continued. The boundaries of the several aldermanic districts shall continue as now constituted until changed by statute. The board may, when necessary, make or complete the description of the boundaries of an aldermanic district. Aldermanic districts shall not be affected by a change in assembly district lines.

§ 79. Meetings. The first meeting of the board of aldermen in each year shall be held on the first Monday in January at noon. At least one stated meeting shall be held in each month, except August and September.

§ 80. Special meetings. The mayor may at any time call a special meeting of the board and he shall do so when requested in writing by fifteen aldermen. Three days before a special meeting a notice of the time of the intended meeting and of the business proposed to be transacted, signed by the mayor, shall be published in the City Record, and the city clerk shall cause a



copy of such notice to be left at or sent by mail to the last known place of residence or business address of each member of the board at least twenty-four hours before the time when such meeting is to convene; but failure to give such notice to any member shall not affect the validity of the meeting or its proceedings. No business shall be transacted at a special meeting other than that specified in the notice.

§ 81. Aldermanic procedure. The president of the board of aldermen, when present, shall preside at each meeting of the board. A majority of all the members of the board shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of absent members. The meetings of the board shall be public. It may determine the rules of its proceedings and punish its members. The board shall keep a journal of its proceedings in which shall be entered the ayes and noes.

§ 82. City clerk; sergeant-at-arms and assistants. The board shall appoint a clerk who shall be the clerk of the board and be the city clerk. In case of a vacancy in the office a successor shall be appointed for the balance of the unexpired term. The term of office of city clerk shall be six years and he may be removed for cause after a hearing on charges by a two-thirds vote of all the members of the board, subject, however, to review on certiorari. The board may appoint and remove a sergeant-at-arms and such assistant sergeants-at-arms as it may determine.

§ 83. City clerk; duties as clerk of the board of aldermen. The city clerk shall keep the journal of proceedings of the board. Immediately after the adjournment of each meeting of the board he shall prepare and file in his office a brief abstract, omitting technical and formal details, of all resolutions and ordinances introduced and passed and of all reports of committees, a copy of which with full copies of all messages from the mayor and reports of departments or officers of the city shall be transmitted by him to the supervisor of the City Record for publication. He shall record all ordinances in a properly indexed book in which each ordinance shall be attested by him and such book shall be a public record. He shall keep open for inspection at all reasonable times the records and journals of proceedings of the board and shall perform such other duties as may be required by the board.

§ 84. City clerk; general duties. The city clerk shall have

charge of all papers and documents of the city, except the papers and documents of other departments, boards, bodies or offices. He shall be the keeper of the common seal of the city and attest all leases, grants and conveyances by the city and such other documents as he may by ordinance or statute be required to attest, except that he shall not attest an instrument required to be executed under the seal of a department, board, body or office. Copies of all papers filed in his office, transcripts of the records and journals of proceedings of the board and copies of ordinances, certified by him under the common seal, shall be admissible in evidence as are papers and documents authenticated by the clerk of a county. He shall have charge and control of the issuing of marriage licenses and of granting, issuing, transferring, renewing and revoking licenses of auctioneers. He shall collect the fees now or hereafter authorized by statute or ordinance.

§ 85. Deputies and subordinates. The city clerk shall appoint five deputies and may appoint other subordinates. He shall designate a deputy for each borough who shall be a resident of the borough.

§ 86. Legislative powers of the board. The board is empowered, subject to the provisions of this act and the general statutes of the state, to adopt ordinances for the following purposes:

1. To guard public health, morals and safety;
2. To prevent, abate and remove nuisances;
3. To protect and preserve life and property;
4. To preserve public peace, order and the general welfare;
5. To provide for licensing, regulating or prohibiting such businesses, callings, traffics, trades and employments as the public good may require;
6. To provide for the efficient and orderly transaction of the business and government of the city;
7. To prescribe general rules and regulations as to contracts, except as in this act otherwise provided;
8. To regulate auction sales.

The foregoing enumeration of powers shall not limit the legislative power of the board. The board may provide for the enforcement of ordinances by penalty, fine, forfeiture or imprisonment; by penalty and forfeiture; by forfeiture and imprisonment; by fine and forfeiture; by fine and imprisonment; and by suspension or forfeiture of license in an appropriate case.

§ 87. Ordinances. Every legislative act of the board shall be by ordinance and no ordinance shall be passed except by vote of a majority of all the members of the board. On the final passage of an ordinance the question shall be taken by ayes and noes which shall be entered in the journal of proceedings. The style of ordinance shall be: "Be it ordained by the board of aldermen of the city of New York as follows:". No ordinance shall be passed until it shall have been printed and upon the desks of the members in its final form at least three calendar days prior to its final passage, unless the mayor shall have certified to the necessity for its immediate passage. Every ordinance shall be general in its application throughout the city, except that an ordinance may be made applicable only to a borough or to a specific portion of the city.

§ 88. Mayor's action on ordinances. Every ordinance shall after its passage by the board be presented, certified by the city clerk, to the mayor. If he approve it, he shall sign it and return it to the city clerk; it shall then be deemed to have been adopted and shall take effect. If he disapprove it, he shall return it to the board with his objections and his objections shall be entered in its journal. The board may reconsider the ordinance after five and within fifteen days after its return. If, upon such reconsideration, the ordinance receive the affirmative vote of at least two-thirds of all the members of the board, it shall be deemed to have been adopted. But one vote shall be had upon such reconsideration. The vote shall be taken by ayes and noes, which shall be entered in its journal. If an ordinance embrace more than one distinct subject, the mayor may approve the provisions relating to one or more subjects and disapprove the others. The provisions approved by the mayor shall take effect; those disapproved by him may be reconsidered and if again passed by the affirmative vote of at least two-thirds of all the members of the board, they shall be deemed to have been adopted and shall take effect without his approval.

§ 89. Mayor's failure to act. If, within ten days after an ordinance shall have been presented to him, the mayor shall neither approve nor return it to the board with his objections, the ordinance shall be deemed to have been adopted and shall take effect in like manner as if he had signed it. At any time prior to the return of an ordinance by the mayor the board may recall the same and may reconsider its action thereon.

§ 90. Present ordinances continued. The ordinances now in force, so far as they are not inconsistent with this act, are confirmed and continued in full force and effect, subject to modification, amendment or repeal by the board of aldermen. But ordinances and resolutions heretofore adopted affecting or relating to franchises or consenting or agreeing to the exercise of a franchise shall not be subject to modification, amendment or repeal by the board of aldermen.

§ 91. Ordinances to be codified and published. The board shall cause a code of ordinances to be prepared and published. The code of ordinances shall be revised by the board of aldermen on or before the first day of June in the year nineteen hundred and fourteen and on or before the first day of June each fifth year thereafter. For such revision the board may employ experts and fix their compensation. The ordinances adopted during each calendar year shall be compiled and published on or before the first day of March of the succeeding year. Ordinances contained in the code or any other volume containing ordinances of the city published by authority of the board of aldermen may be read in evidence.

§ 92. Aldermen; county functions. The powers and duties of a board of supervisors heretofore devolved upon the board of aldermen are continued in the board, except as provided in this act to be exercised by another department, board, body, office or officer.

§ 93. Interrogation of officers and employees. The board may, by resolution, require any officer or employee, except the mayor, to appear at a stated or special meeting of the board for interrogation concerning the administration or condition of the department, bureau, board or office of which he is an officer or employee. Service of a copy of the resolution upon any such officer or a deputy, if any, at the office of such officer or upon such employee in person, not less than twenty-four hours prior to the time when his attendance is required, shall be sufficient notice.

§ 94. Power of investigation. The board may inquire whether the laws and ordinances relating to any subject or to any department, board, body or office of the city or a county are being faithfully observed, whether the duties of the officers and employees of the city or a county are being faithfully discharged and whether there are any unnecessary, inefficient or unfit employees, excessive salaries or compensation paid, and generally as to all

matters relating to the orderly and economical administration of business. The board, or a committee thereof, may employ counsel and take proof and testimony.

§ 95. Street obstructions. The board shall not have authority to permit the erection of booths and stands within stoop lines, except for the sale of newspapers, periodicals, fruits and soda water, and then only with the consent of the owner of the premises, nor shall the board have power to authorize the placing or continuing of any encroachment or obstruction upon a street, except for a public purpose, or for the temporary occupation thereof during the erection or repair of a building or structure upon a lot opposite the same. All ordinances authorizing encroachments or obstructions except for public purposes in, upon, over or under the streets shall fix definite license fees according to the character, extent and duration thereof, and shall provide for the issue of revocable licenses therefor according to an established form and for their numbering and registration.

§ 96. Ordinances affecting licenses or permits. The previous recommendation, consent or approval of the board of aldermen or a committee or member thereof shall not be necessary to the issuance of a license or permit for any purpose, and no ordinance shall require such recommendation, consent or approval.

§ 97. Restrictions of power. The board of aldermen shall not

1. Enter into, modify or alter the terms of a contract for public work or improvement, or release a contractor from a bond, undertaking, fine, penalty or forfeiture, or extend or authorize the extension of the time of performance of a contract;

2. Audit or allow any claim against the city.

§ 98. Commissioners of deeds. The board shall appoint such number of commissioners of deeds of the city of New York as it determines, who shall hold office for the term of two years. A commissioner of deeds, before entering upon the discharge of the duties of the office, and within thirty days after appointment, shall take and subscribe the constitutional oath of office before the city clerk or a deputy, and shall pay a fee of five dollars, whereupon the city clerk shall issue to him a certificate of appointment. The city clerk shall immediately file with the county clerk and the register, if any, of each county a certificate of the appointment and qualification of each commissioner of deeds, upon which shall appear the official sig-

nature of the commissioner. A commissioner of deeds may within the city administer oaths and take proofs and acknowledgment of all written instruments. The city clerk shall, as provided by law, authenticate certificates of acknowledgment or proof made by a commissioner of deeds. The county clerk of a county shall authenticate certificates of acknowledgment or proof made by a commissioner of deeds. The mayor may remove a commissioner of deeds upon charges, after notice and an opportunity of being heard before him. The secretary to the mayor, when authorized by the mayor, may take proof and testimony as to such charges and report the same to the mayor who may act thereon.

## CHAPTER IV.

### BOARD OF ESTIMATE.

- Article 1. Organization and powers of the board. (§§ 110-117.)
2. Appropriations. (§§ 125-135.)
  3. City map. (§§ 140-145.)
  4. Franchises. (§§ 150-158.)
  5. Public improvements. (§§ 170-177.)

## ARTICLE 1.

### ORGANIZATION AND POWERS OF THE BOARD.

- Section 110. Composition of board; secretary.
111. Meetings; quorum; minutes.
  112. Board acts by resolution.
  113. Resolutions involving expenditure.
  114. Secretary of board.
  115. Standard forms of contract.
  116. Standards of quality.
  117. Settlement of claims; cancellation of and relief from taxes and assessments.

Section 110. Composition of board; secretary. The board shall be composed of the mayor, the president of the board of aldermen, the comptroller, the borough presidents of the several boroughs and the chairman of the finance committee of the board of aldermen. In the determinations of the board the mayor, president of the board of aldermen and comptroller shall be entitled to cast three votes each; the borough presidents of the boroughs of Manhattan and Brooklyn two votes each, the borough

presidents of the boroughs of Bronx, Queens and Richmond one vote each and the chairman of the finance committee of the board of aldermen one vote. The board shall appoint a secretary of the board.

§ 111. Meetings; quorum; minutes. The first meeting of the board in each year shall be held on the second Monday in January, or sooner if called by the mayor by written notice served personally upon each member or by leaving the same at his office with a person of suitable age and discretion. Subsequent meetings may be called by the mayor or by members of the board entitled to cast six votes or as the board direct. The mayor or, in his absence, the president of the board of aldermen shall preside at each meeting of the board. A quorum of the board shall consist of members entitled to cast nine votes, but must include at least two members entitled to cast three votes each. The board shall cause minutes of its proceedings to be kept which shall be recorded and be public records.

§ 112. Board acts by resolution. Every act of the board shall be by resolution adopted by the affirmative vote of members entitled to cast at least a majority of the whole number of votes authorized to be cast by its members, unless otherwise provided in this act or other statute. No resolution or amendment thereof or substitute therefor shall be adopted at the meeting at which it is introduced, except by the affirmative vote of members entitled to cast at least twelve votes. Upon the adoption of a resolution the question shall be taken by ayes and noes which shall be entered in its minutes.

§ 113. Resolutions involving expenditure. A resolution involving the expenditure of moneys, other than a resolution relating to the annual estimate or a special appropriation, shall, upon its adoption by the board, be certified by its secretary and be presented to the mayor. If he approve it, he shall sign it and return it to the secretary, and it shall then take effect. If he disapprove it, he shall return it to the secretary with his objections, which shall be entered in the minutes of the board. The board may, within twenty days after the return of a resolution disapproved by the mayor, reconsider and may readopt the same. If the resolution be readopted by the board it shall take effect. Upon such reconsideration but one vote shall be had. If, within ten days after the resolution shall have been presented to the mayor, he do not return it approved or disapproved it shall take

effect as if he had returned it approved. At any time prior to the return of a resolution by the mayor the board may recall the same and may reconsider its action thereon.

§ 114. Secretary of board. The secretary shall keep and record the minutes of the meetings of the board and perform such other duties as may be prescribed in this act or other statute or by the board.

§ 115. Standard forms of contract. The board of estimate may prescribe standard forms of contract and specifications to be used by each department, board, body and office of the city and each county for contracts for work and supplies, which shall be approved as to form by the corporation counsel.

§ 116. Standards of quality. The board of estimate may fix standards of quality and prescribe and standardize specifications for supplies to be purchased by or for any department, board, body or office of the city or a county.

§ 117. Settlement of claims; cancellation of and relief from taxes and assessments. The board may upon the recommendation in writing of the corporation counsel

1. Inquire into, settle and adjust any claim against the city and authorize the payment thereof, whether or not an action be pending thereon, for work done, materials or supplies furnished or services rendered, provided it appear to the board, after public examination of witnesses under oath by the board or a member thereof that it is just for the city to pay the same, without regard to any defense at law which the city may have other than the statute of limitations; but the board shall not authorize the payment of a claim for services performed under an appointment or employment made in violation of the civil service law. The amount of a claim so allowed shall be paid as a judgment;

2. Hear and determine any application for relief from an assessment for a local improvement, provided that the amount of the assessment as so readjusted be paid forthwith by the applicant; and no person who shall have made an application to the board for relief hereunder shall thereafter maintain an action or proceeding for relief from such assessment or any part thereof, or to set the same aside;

3. Cancel in writing, vacate or reduce a tax including water rents, or an assessment other than one confirmed by a court of record, or any item of such tax or assessment, which by reason of want of authority, jurisdiction, defect or substantial error is void



or invalid, whether such invalidity appear upon the face of the proceedings or otherwise;

4. By unanimous vote cancel a tax, assessment, water rents, tax sale or tax lien against real property exempt under subdivision seven of section four of the tax law at the time such tax, water rent or assessment became a lien.

## ARTICLE 2.

### APPROPRIATIONS.

Section 125. Departmental estimates; tentative annual estimate.

126. Public hearing on and publication of tentative estimate.

127. Annual estimate required.

128. Contents of annual estimate.

129. Composition of annual estimate.

130. Mayor's action on annual estimate.

131. Action by aldermen; mayor's veto.

132. Budget; certificate and publication.

133. Unexpended appropriations.

134. Transfer of appropriations.

135. Special appropriations.

Section 125. Departmental estimates; tentative annual estimate. To enable the board of estimate to make the annual estimate, the head of each department, board, body and office of the city and each county, including courts, shall in such detail and upon such day as the board may direct, but not later than the first day of September, send to the secretary of the board a written estimate, to be known as a departmental estimate, of the amount of expenditure, specifying the objects thereof, required for the department, board, body, office or court for the ensuing calendar year, and a copy of such estimate shall be sent at the same time to the board of aldermen and to the supervisor of the City Record. The secretary of the board of estimate shall prepare a tentative annual estimate under the direction of a committee of five members to be composed of the comptroller, the chairman of the finance committee of the board of aldermen and three other members of the board of estimate to be appointed by the mayor, and such tentative annual estimate shall be submitted to the board of estimate on or before the first day of October. The committee shall fix a time and place for a public hearing in regard to each departmental estimate.

Each such estimate shall be published in the City Record at least ten days before the time fixed for such hearing, and simultaneously with such publication there shall also be published in the City Record the notice of such hearing. At least five days' notice of the hearing upon a departmental estimate shall be given the head of the department, board, body or office whose estimate is to be considered at such hearing.

§ 126. Public hearing on and publication of tentative estimate. The board of estimate shall fix a time and place for a public hearing in regard to the tentative estimate. Such estimate shall be published in the City Record at least ten days before the time fixed for such hearing, and simultaneously with such publication there shall also be published in the City Record the notice of such hearing.

§ 127. Annual estimate required. The board of estimate shall, between the first day of October and the first day of November, meet and make an estimate of the amounts required to pay the cost for the ensuing calendar year of conducting the public business of the city and the counties which shall be called the annual estimate. Such estimate shall show in such detail as may be practicable the items of proposed appropriations for the purposes required to be stated in the annual estimate and the conditions imposed by the board, if any, under which the same may be expended.

§ 128. Contents of annual estimate. The annual estimate shall show, in such detail as the board may deem advisable, the estimated receipts of each department, board, body, office and court, including unexpended balances of former appropriations. The sources of all revenues of the city and the estimated receipts from each, including the sources and receipts of the general fund for the reduction of taxation and the several sinking funds of the city, shall be shown by separate tables.

The annual estimate shall also show in detail the condition of each pension, relief and retirement fund for which an appropriation may be required, and such other matters as may by this act or other statute be required to be stated therein.

§ 129. Composition of annual estimate. Provision shall be made in the annual estimate for

1. The salaries and compensation of all city officers and employees, except such as are payable from proceeds of sale of corporate stock;

2. Salaries and compensation of all officers and employees of each county and all other expenses of the county properly chargeable to it as distinguished from city charges;

3. The salaries and expenses of administration not payable from proceeds of sale of corporate stock of all commissions, boards and bodies required by law to be paid out of the city treasury, except the public service commission in the first district;

4. The cost of the administration of justice in the courts in the city and the counties which is to be paid by the city or a county;

5. The cost of compiling and publishing the City Record and supplements thereof and of all advertising;

6. The charges imposed upon the city by the election law;

7. The quota of state taxes imposed upon the counties;

8. Interest upon indebtedness for which the city is liable;

9. The annual quota for the redemption of the debt of the city or a county, including instalments, payable during the ensuing calendar year;

10. Such sums as may, in addition to the accumulations of a sinking fund, be necessary to redeem any obligations payable therefrom during the next calendar year;

11. Taxes levied prior to the preceding first day of January deemed by the board to be uncollectible, so far as the same shall not have been provided for in prior tax levies or by the issue of corporate stock, other than uncollectible taxes for the payment of which the issue of corporate stock shall have been authorized by statute;

12. The annual interest on general fund bonds, when necessary;

13. The redemption of special revenue bonds, certificates of indebtedness or other evidences of temporary indebtedness redeemable out of the tax levy for the ensuing calendar year;

14. The cost of equipment, repairs, renewals and supplies and other operating expenses for each department, board, body and office of the city and each county and the rental of suitable buildings or offices in buildings not owned by the city;

15. The amounts required for the several pension, relief and retirement funds;

16. The maintenance and administration of Hunter College of the City of New York and The College of the City of New York;

17. The maintenance of free public libraries, including branch and traveling libraries;

18. Brooklyn Disciplinary Training School for Boys;

19. The maintenance of the grounds, buildings, collections, instruments and equipment of the Meteorological and Astronomical Observatory; the American Museum of Natural History; the Metropolitan Museum of Art; the Brooklyn Institute of Arts and Sciences; the New York Botanical Garden; the New York Zoological Society; and the New York Public Library (Astor, Lenox and Tilden foundations), respectively;

20. Such sum as the board of estimate may deem proper for the due observance of Memorial day, to be expended by the memorial committees of the Grand Army of the Republic, by the United Spanish War Veterans and by the Army and Navy Union in the various boroughs, or in such manner as the board determine;

21. Moneys to be paid, in the discretion of the board of estimate, for

a. The relief of poor blind persons;

b. The education and support of the deaf and dumb and of juvenile delinquents;

c. The care, support, maintenance and secular education of inmates of asylums, protectories, homes or refuges for dependent children and correctional institutions;

d. Charitable, educational, eleemosynary, correctional or reformatory institutions, wholly or partly under private control for the care, support, maintenance or education of the inmates thereof;

e. The New York Society for the Prevention of Cruelty to Children, the Brooklyn Society for the Prevention of Cruelty to Children, the Richmond County Society for the Prevention of Cruelty to Children and other societies for the prevention of cruelty to children for the purpose of aiding the enforcement of the laws relating to or affecting children;

No money shall be paid from the city treasury, however, for any inmate of an institution mentioned in section fourteen of article eight of the state constitution who is not received and retained therein in accordance with its provisions; moneys paid to any such institution shall be expended only for the care, support, maintenance or education of its inmates;

22. Such other matters or purposes, not specifically provided for in this act, as may be required by statute or as the board may determine to be necessary for the administration, during the ensuing calendar year, of the affairs of the city or of a county;

23. Emergencies for which provision is not otherwise made in this act or other statute;

24. Sums for petty cash purposes to be paid to heads of departments, boards, bodies or offices, to be expended by them under such conditions as to bond and audit as the board may prescribe.

§ 130. Mayor's action on annual estimate. The annual estimate shall, upon its adoption by the board of estimate, be certified by the secretary of the board and presented to the mayor. The mayor may, within five days, disapprove one or more items of the estimate, and shall return it to the secretary of the board with a statement of the items disapproved, if any, and his reasons for such disapproval. Such statement shall be entered in the minutes of the board. The board may, within five days after the return of the estimate, reconsider an item disapproved by the mayor and such item may be readopted by the board. Upon such reconsideration but one vote shall be had. The portion of the estimate not disapproved by the mayor, together with the items readopted by the board, shall constitute the completed annual estimate. At any time prior to the return of the estimate by the mayor the board may recall the same and reconsider its action thereon.

§ 131. Action by aldermen; mayor's veto. Within five days after the annual estimate shall have been completed by the board of estimate it shall be transmitted to the board of aldermen, and the mayor shall call a meeting of the board of aldermen for action thereon. The consideration of the annual estimate by the board of aldermen shall continue from day to day for a period not exceeding twenty days. Within twenty days after its transmission the board of aldermen shall adopt the annual estimate as transmitted, or amend the same, and adopt it as amended, and in the latter case shall transmit the same to the mayor. If said estimate, or estimate as amended shall not have been adopted within said period, at the expiration of said period it shall be deemed to have been adopted as transmitted by the board of estimate. The board of aldermen may reduce or reject any item of the annual estimate,

except for state taxes, for principal of or interest on the city debt or the amount of an item fixed by statute. The action of the board of aldermen in reducing or rejecting an item of the annual estimate shall be approved or disapproved by the mayor within five days after transmission, and unless the item disapproved be readopted within ten days by a two-thirds vote of all of the members of the board of aldermen, the item as fixed by the board of estimate shall stand. The board of aldermen shall not increase the amount of an item or vary the terms or conditions thereof or insert a new item.

§ 132. Budget; certification and publication. The annual estimate as finally adopted shall be the budget for the ensuing calendar year, and the several amounts therein specified for expenditures shall be and become appropriated in the amounts and for the several purposes as therein specified for such year. Prior to the twenty-fifth day of December, the budget shall be certified by the mayor, comptroller and city clerk. On or before the thirty-first day of December the budget, as so certified, shall be filed in the office of the comptroller and published in the City Record.

§ 133. Unexpended appropriations. Balances of appropriations remaining, after allowing for all sums chargeable against the same shall, at the expiration of sixty days after the close of the calendar year for which they shall have been made, be paid into the general fund for the reduction of taxation.

§ 134. Transfer of appropriations. The board of estimate may transfer an appropriation for a specific purpose in one year and found by the head of a department, board, body or office, or a court, to be in excess of the amount required for such purpose, to another purpose of such year for which the appropriation shall have been found to be insufficient, but the board shall not transfer moneys appropriated in one year to any purpose of another year.

§ 135. Special appropriations. Upon the recommendation of a head of a department, board, body or office, special appropriations may be made by the board of estimate for the purposes for which appropriations may be made in the annual budget, subject, however, to action thereon by the mayor and board of aldermen as in the adoption of the annual budget. Moneys required for such appropriations shall be provided by the issue of special revenue bonds.

## ARTICLE 3.

## CITY MAP.

Section 140. Completed portions confirmed; established grades.

141. Map to be completed.

142. Changing city map; jurisdiction and procedure.

143. Additions to city map.

144. Where city map and copies shall be filed.

145. Platting of lands and dedication of streets.

Section 140. Completed portions confirmed; established grades. The city map, as defined by section four hundred and thirty-eight of chapter four hundred and sixty-six of the laws of nineteen hundred and one with all additions thereto or changes therein or heretofore or thereafter made by lawful authority and showing the parks, streets, bridges and tunnels and the approaches thereto and other public places within the city, and the maps and profiles included in or accompanying the same, showing the grades of such streets as adopted and established, shall constitute the map of the city to the extent and so far as they delineate the territory lying within the city, and as such is hereby adopted, established and confirmed and is final and conclusive in respect of the location, width and grades of the streets shown thereon as laid out, adopted and established; provided, that whenever any street in the city shall have been used as such for upward of twenty years without having the grade thereof established by law, the level or surface of such street as so used shall be deemed to be and to have been the legally established grade thereof.

§ 141. Map to be completed. The borough president of each borough shall prepare and submit to the board of estimate a map of that part of the territory embraced within the borough of which a map or plan has not heretofore been finally established and adopted, locating and laying out all parks, streets, bridges, tunnels and approaches to bridges and tunnels, and indicating the width and grade of all streets so located and laid out. The city engineer shall, when necessary, prepare and furnish for primary stations the latitude and longitude determined in conformity with the method used by the United States coast and geodetic survey; and he shall furnish co-ordinates for primary and secondary stations. Such co-ordinates shall be official and binding upon all officers making any map or plan relating to any borough.

§ 142. Changing city map; jurisdiction and procedure. The board of estimate may, when it deem it for the public interest, change the city map so as to lay out new streets, parks, bridges, tunnels and approaches to bridges and tunnels, and to widen, straighten, extend, alter and close existing streets, and close streams, ponds and waters, shown upon such map, by publishing notice of its proposed action for three days in the City Record and giving an opportunity for all persons interested in such change to be heard, at a time and place to be specified in such notice, such time to be not less than ten days after the first publication of such notice. After the due publication of such notice and after hearing protests and objections, if any, against the proposed change, if the board adopt such change, notwithstanding such protests and objections, and such change receive the approval of the mayor, it shall be deemed to have been made. No street, stream, pond or water shall be closed in whole or in part unless the board shall decide that the same, or so much thereof as is to be closed, is no longer needed for public purposes.

§ 143. Additions to city map. When the borough president shall have completed a map of a part of the territory of the borough, he shall report the same together with the surveys, maps and profiles, showing the parks, streets, bridges, tunnels and approaches to bridges and tunnels located and laid out by him, and the grade thereof, to the board of estimate for its approval, subject, nevertheless, to such corrections or modifications as the board may determine; and such maps and profiles as finally adopted by it shall be certified by the secretary of the board. Such maps and profiles, when so adopted, shall become a part of the city map and shall be final with respect to the location, width and grades of the streets shown thereon, and subject to change or modification only as provided in this article.

§ 144. Where city map and copies shall be filed. The city map shall be filed with the city engineer. One copy thereof shall be filed in the office of the corporation counsel and a copy thereof, so far as the same shall apply to a borough, in both the office of the borough president of the borough and the recording officer of the county in which the borough is situated.

§ 145. Platting of lands and dedication of streets. A map of the subdivision of lands or the platting thereof into streets shall not be filed or become effectual and binding as a dedication thereof until approved by the board of estimate. Upon such approval



the title of the parties filing the map to the streets designated on the map or plat shall immediately vest in fee in the city in trust for the designated public uses. Such map shall be filed in the office of the borough president of the borough in which the lands are situated, and a copy thereof with the approval of the board indorsed thereon shall be filed in the office of the city engineer and corporation counsel and filed and recorded in the office of the recording officer of the county in which the land is situated and indexed therein as a deed.

## ARTICLE 4.

### FRANCHISES.

Section 150. Franchises; consent of city to.

151. Proposed franchise to be published; public hearing to be had; value of franchise to be determined.

152. Vote required to authorize franchise; procedure.

153. Duration of franchise.

154. Existing ordinances relating to franchises.

155. Reversion of franchise to city; conditions.

156. Franchise book.

157. Application of article.

158. Section of railroad law not applicable.

Section 150. Franchises; consent of city to. No franchise shall be granted, modified, amended, enlarged or extended, territorially or otherwise, except with the consent of the board of estimate and the mayor as provided in this chapter, and such board and the mayor shall have the exclusive power, in behalf of the city, to consent to or contract for the use by others of public property for any purpose for which a franchise may be granted.

§ 151. Proposed franchise to be published; public hearing to be had; value of franchise to be determined. Before a consent to the grant of a franchise shall be given by the board, a date shall be fixed for a public hearing upon a petition for the grant. No such hearing shall be held until notice thereof and the petition shall have been published within twenty days immediately prior thereto at least ten times in the City Record, and at least twice at the expense of the petitioner in two newspapers published in

the city, to be designated by the mayor. The board shall make inquiry as to the money value of the franchise proposed to be granted and the adequacy of the compensation to be paid therefor, and shall embody the result of such inquiry in a proposed contract containing all of the terms and conditions and including in detail provisions, if any, as to rates, fares and charges. Such proposed contract, together with the form of the proposed resolution consenting to the same in behalf of the city, shall be entered upon the minutes of the board, but before authorizing any such contract or adopting any such resolution a date shall be fixed for a public hearing thereon. No such hearing shall be held until notice thereof and the proposed contract and proposed resolution of consent thereto shall have been published within twenty days immediately prior thereto at least ten times in the City Record, nor until such notice and a synopsis of the terms of the proposed contract shall have been published at least twice at the expense of the proposed grantee in the two newspapers in which the petition and notice of hearing thereon shall have been published.

§ 152. Vote required to authorize franchise; procedure. No franchise shall be approved, authorized or granted except by the concurrence of members of the board entitled to cast at least twelve votes. The vote upon any such proposition shall be taken by ayes and noes which shall be recorded in the minutes of the board. The separate and additional approval of the mayor shall be necessary to the validity of every franchise. Thirty days at least shall intervene between the introduction and final passage of a resolution affirming, authorizing or granting a franchise. Within five days after the adoption of a resolution granting a franchise such resolution and franchise shall be duly attested by the secretary of the board and transmitted to the comptroller, the corporation counsel, the city clerk and, if it relate to a matter within the jurisdiction of the public service commission of the first district, to the commission, to be preserved among the records of their respective offices. All such certified copies shall be public records.

§ 153. Duration of franchise. No franchise shall be granted under this act for a period longer than twenty-five years, but the grant of a franchise may provide for giving the grantee the right to renewals, not exceeding in the aggregate twenty-five years, upon fair revaluation of the right to renewals.

§ 154. Existing ordinances relating to franchises. An existing

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ordinance affecting or relating to a franchise can be modified, amended or repealed by the board of estimate with the approval of the mayor.

§ 155. Reversion of franchise to city; conditions. Upon the termination of a franchise all of the rights of the grantee thereunder shall cease and determine. The grant of a franchise may provide that all or any part of the property constructed or maintained pursuant to the franchise shall, upon the termination of the franchise, become the property of the city without compensation or that there be a fair appraisal of the value of such property and that it become the property of the city upon payment to the grantee of the amount of such appraisal. If the grant of a franchise provide for an appraisal, it shall specify the method of appraisal. On such appraisal the value derived from the use of the property in connection with the franchise shall be excluded. Upon coming into possession of any such property the city may either operate it or any part thereof on its own account, or lease the same or any part thereof, or grant a further franchise in connection therewith for a period not exceeding twenty years. Every grant of a franchise shall make provision by way of forfeiture of the grant or otherwise to secure efficiency of public service at reasonable rates and the maintenance of the property in good condition throughout the term.

§ 156. Franchise book. In addition to its other records, the board shall cause to be kept a separate and public record to be known as the "Franchise Book" in which shall be transcribed verbatim and without delay every grant of a franchise hereafter granted by the board or by the public service commission of the first district, together with copies of all formalities of execution or verification thereof.

§ 157. Application of article. The provisions of this article shall apply to the renewal or extension of a franchise to the same grantee, or to his successor in interest. They shall not apply to grants of franchises to the United States or the state, but such franchises may be granted by the vote of all of the members of the board. The provisions of this article shall not apply to ferries.

§ 158. Section of railroad law not applicable. Section one hundred and seventy-three of the railroad law shall not apply to grants made under and pursuant to this article.

## ARTICLE 5.

## PUBLIC IMPROVEMENTS.

- Section 170. Jurisdiction of board of estimate.
- 171. Recommendations by city engineer.
  - 172. Necessities of departments to be reported.
  - 173. Drainage and sewerage plan to be completed.
  - 174. Raising grade for sewerage.
  - 175. Permanent sewer plan.
  - 176. Overflow sewers; outlets to be dredged.
  - 177. Apportionment of cost of local improvements.

Section 170. Jurisdiction of board of estimate. The board of estimate shall determine whether a proposed improvement shall be a general or a local improvement. Except as otherwise expressly provided in this act, all general and local improvements, if approved, shall require the authorization of the board of estimate. The resolution of a local board proposing an improvement shall be approved or disapproved by the board of estimate. The board of estimate may, without a proposal of a local board, authorize a general improvement and determine that the expense thereof be borne by the city or by one or more boroughs or by the city and one or more boroughs, and apportion such expense. The board of estimate may, without a proposal of a local board, authorize a local improvement for the opening, closing, widening or extending of streets or the construction of sewers, bridges or tunnels or the improvement of the waterfront. When an improvement shall have been authorized by the board of estimate, the board shall direct that the improvement be carried out by the proper officers.

§ 171. Recommendations by city engineer. The city engineer shall submit to the board at its first meeting in the month of September in each year, and from time to time as the board may direct, recommendations for improvements for which its authorization is required, with a detailed estimate of the cost thereof, to be initiated during the next succeeding calendar year, including the acquisition of real property therefor. All such recommendations shall be published in the City Record not later than the first day of October following the date of their submission.

§ 172. Necessities of departments to be reported. For the purpose of enabling the city engineer to prepare such recommendations the head of each department, board, body or office shall, not

later than the first day of July in each year, or from time to time as required, submit to the city engineer a full description of proposed improvements to be executed for the use and under the direction of such head of department, board, body or office, with an adequate explanation thereof in such detail and form as the board of estimate may prescribe.

§ 173. Drainage and sewerage plan to be completed. The borough president of each borough shall, subject to the approval of the board of estimate, prepare and complete a plan for the proper sewerage and drainage of the borough. The borough president of each borough shall, subject to like approval, lay out the borough into as many sewer districts as he may deem necessary and delineate on suitable maps the location, size or capacity and elevation of existing sewers to be retained and proposed alterations and improvements and of each sewer proposed for each of said districts, and shall also delineate on such maps the established grades of the streets.

§ 174. Raising grade for sewerage. When a borough president determine it necessary to raise the grade of a street for the proper sewerage of the sewer district in which the street or a part thereof is situated, he shall prepare a map showing the plan of the proposed change of grade and present it to the board of estimate for approval, and the board may change the grade of the street or part thereof accordingly.

§ 175. Permanent sewer plan. Upon the completion of the map for the drainage and sewerage of a sewer district and its approval by the board of estimate, such map shall be the permanent plan for the sewers of the district unless subsequently modified by the board. The original of such completed map and of the maps showing modifications thereof shall be certified by the secretary of the board and shall be filed in the office of the city engineer and copies thereof shall be filed as follows: One copy in the office of the recording officer of the county in which the territory shown upon the map is located, one copy in the office of the corporation counsel and one copy in the office of the borough president. It shall not be lawful hereafter to construct a sewer unless such sewer be in accordance with the general plan, approved or modified and approved as aforesaid.

§ 176. Overflow sewers; outlets to be dredged. An overflow sewer deemed necessary for the relief of a main sewer may be discharged into any canal, inlet or other navigable water

within or adjacent to the city; provided, that any such canal, inlet or navigable water used as an outlet for drainage shall be kept free of obstructions from sewage.

§ 177. Apportionment of cost of local improvements. The board of estimate shall determine what proportion of the expense of a local improvement be paid by the city or a borough, provided that if the estimated expense to be borne by the city exceed the sum of five hundred thousand dollars or by a borough exceed the sum of one hundred thousand dollars the approval of the board of aldermen shall be required. The secretary of the board of estimate shall file with the comptroller a certificate of the determination of the board of estimate and of the approval of the board of aldermen, if required. The expense of a local improvement, determined by the board of estimate to be borne by a borough, shall be paid out of the proceeds of special revenue bonds.

## CHAPTER V.

### THE MAYOR.

#### Section 190. The mayor.

191. Disability or absence of the mayor.
192. Vacancy in the office of mayor; how filled.
193. Duties of the mayor.
194. Mayor's power of appointment and removal.
195. Subordinates in mayor's office.
196. Commissioner of accounts and statistics; duties and powers.
197. City marshals.

Section 190. The mayor. The mayor shall be the chief executive officer of the city and be a magistrate. A mayor shall be elected at the general election in the year nineteen hundred and thirteen and every four years thereafter, and hold office for the term of four years commencing on the first day of January after his election. The salary of the mayor shall be twenty-five thousand dollars a year.

§ 191. Disability or absence of the mayor. The president of the board of aldermen shall act as mayor during the disability or absence from the city of the mayor, except during the time specified in a designation made as provided in this section. The president of the board of aldermen while acting as mayor shall not exercise the power of appointment to or removal from office until

the disability or absence have continued more than thirty days after his assumption of the duties of mayor, or approve or disapprove an ordinance or resolution of the board of estimate until the disability or absence have continued more than nine days after his assumption of such duties. The mayor may designate by writing, filed in his office and in the office of the city clerk, a member of the board of estimate or an officer who is the head of a department who shall act as mayor for a period not exceeding forty consecutive days during the disability or absence from the city of the mayor. The entire period during the calendar year for which designations can be so made shall not exceed sixty days. The officer so designated shall not have the power of mayor in relation to franchises or appointment to or removal from office. The mayor may revoke such designation. Such designated officer shall serve without additional compensation.

§ 192. Vacancy in the office of mayor; how filled. A vacancy in the office of mayor shall be filled for the remainder of the term of office, if any, at the annual election happening not less than thirty days after such vacancy occur, and the president of the board of aldermen shall act as mayor until the first of January succeeding such election. While the offices of mayor and president of the board of aldermen both be vacant or while no other officer be authorized to act as mayor, the chairman of the finance committee of the board of aldermen shall act as mayor, subject to the limitations provided in case the president of the board of aldermen act as mayor.

§ 193. Duties of the mayor. It shall be the duty of the mayor

1. To communicate to the board of aldermen, at least once in each year, a general statement of the finances, government and improvements of the city;
2. To recommend to the board of aldermen such measures as he deem expedient;
3. To inform himself concerning the several departments, boards, bodies and offices of the city;
4. To be vigilant and active in causing the ordinances of the city and laws of the state to be executed and enforced, and he may call together for consultation and co-operation the heads of the several departments, boards, bodies and offices;
5. To perform the duties prescribed for him by ordinance and statute.

§ 194. Mayor's power of appointment and removal. The mayor shall appoint the heads of departments, a commissioner of accounts and statistics, city marshals and the members of every board, body and commission for whose appointment or election express provision is not otherwise made in this act or other statute. The mayor may, when in his judgment the public interests require, except as otherwise provided in this act, remove from office any public officer holding office by appointment from a mayor, except judicial officers.

§ 195. Subordinates in mayor's office. The mayor may appoint and prescribe the duties of the secretaries, clerks and subordinates in his office. He may authorize and designate in writing for a period, not extending beyond his term of office, one of his secretaries or chief clerk to sign his name to corporate stock, assessment bonds or any paper or document to which his signature is required, except a certificate of appointment to or removal from office, a designation of a person to act as mayor, the approval or disapproval of an ordinance or a resolution of the board of estimate. The person so designated shall sign his own name under that of the mayor. Such a designation shall be in duplicate and filed in the offices of the mayor and comptroller and may, in like manner, be revoked by the mayor.

§ 196. Commissioner of accounts and statistics; duties and powers. The commissioner of accounts and statistics shall appoint a deputy. Either the commissioner or the deputy shall be a competent public accountant. The commissioner shall

1. When directed by the mayor investigate the administration and condition of any department, board, body or office of the city or of a county. The commissioner shall examine quarterly the accounts of the chamberlain and comptroller and of the trustee of each pension, relief and retirement fund and make such special examinations of the accounts and methods of the departments, boards, bodies and offices of the city and of the counties as the mayor may direct, and shall report in writing to the mayor the results thereof. For the purpose of ascertaining facts in connection with these examinations the commissioner and the deputy shall each have full power to compel the attendance of witnesses, to administer oaths and to examine such persons as he may deem necessary.

2. Be the custodian of all statistical records of the city and the counties and have control of the compilation and publication of statistics; provided, that the board of city record shall determine



when such statistics shall be published and the form and detail of their publication, subject to the provisions of this act or other statute or the code of ordinances. Except as otherwise provided in this act or other statute, the commissioner shall be the custodian of and shall arrange for convenient public examination all records of municipalities or corporations heretofore consolidated to form the city of New York and of all boards, bodies or offices heretofore controlling or directing work therefor and for the city but which have been or may be abolished; provided, that no book or record shall be removed from the custody of a department, board, body or office of the city or a county while the use of such book or record is there required. All books, papers and records in the custody of the commissioner and all reports made to the mayor, except reports of investigations of criminal charges and reports of investigations in aid of the defense of actions or proceedings in which the city is interested, before such charges or actions shall have been finally determined by the courts, shall be public records.

§ 197. City marshals. The mayor shall appoint and assign to duty such number of city marshals in and for each borough as shall be fixed by the board of estimate. The marshals now in office shall continue in office, unless sooner removed, until the expiration of the terms for which they were severally appointed and shall hereafter be known as city marshals.

## CHAPTER VI.

### GENERAL ADMINISTRATIVE PROVISIONS.

Section 210. General application.

- 211. Enumeration of administrative departments.
- 212. Powers, duties and obligations continued.
- 213. Central and branch offices.
- 214. Boards and bodies; quorum; powers.
- 215. Bureaus, offices and positions continued.
- 216. Subordinates; rules and regulations.
- 217. Official seals.
- 218. Badges and uniforms.
- 219. Expenses of departments.
- 220. Records to be kept and abstracts published.
- 221. Copies and inspection of records.
- 222. Official records as evidence.

**Section 223.** Reports and statistics.

224. Taking of proof and testimony.

225. Personal property; disposition of.

226. Useless records.

227. Deputy or subordinate acting for principal.

**Section 210.** General application. Unless the context or subject-matter otherwise require, the provisions of this chapter shall apply to every department, board, body and office of the city and the counties, and to all city and county officers and their subordinates.

§ 211. Enumeration of administrative departments. There shall be the following administrative departments in the city:

1. Finance department.
2. City treasury.
3. Tax department.
4. Law department.
5. Engineering department.
6. Department of education.
7. Department of water, gas and electricity.
8. Police department.
9. Fire department.
10. Health department.
11. Tenement-house department.
12. Charities department.
13. Department of correction.
14. Department of hospitals.
15. Department of docks and ferries.
16. Park department.
17. Bridge department.
18. Street cleaning department.
19. Department of licenses.
20. Department of markets, weights and measures.
21. Department of city architecture.
22. Art commission.
23. Municipal civil service commission.
24. Recreation commission.
25. Board of city record.
26. Borough president.

§ 212. Powers, duties and obligations continued. The powers conferred and the duties imposed upon a department, board, body, office, officer or employee under any statute or ordinance now in force shall, if the department, board, body, office, position or em-

ployment be abolished by this act, be hereafter exercised and discharged by the department, board, body, office, officer or employee upon which or whom is imposed corresponding or like functions, powers and duties under the provisions of this act. All unexecuted or existing contracts authorized or made by a department, board, body, office, bureau, officer or employee which or whose office, position or employment is abolished or whose functions are transferred by this act and all bonds or undertakings in favor of the city or a county enforceable by a department, board, body, office, officer or employee which or whose office, position or employment is abolished or whose functions are transferred by this act shall continue in full force and effect and such contracts shall be executed and carried out and such bonds and undertakings be enforceable by the department, board, body, bureau, office, officer or employee to whom such functions are transferred or upon whom corresponding or like functions are conferred by this act.

§ 213. Central and branch offices. The central office of each department shall be in the borough of Manhattan. The head of an administrative department may, with the consent of the board of estimate, establish a branch office of the department in any borough, but there shall be a branch office in the borough of Brooklyn of each of the following departments: city treasury; tax; law; police; fire; tenement-house; health; charities; water, gas and electricity; park; bridge; street cleaning; licenses.

§ 214. Boards and bodies; quorum; powers. Except as otherwise provided in this act a majority of the members of a board or body shall constitute a quorum, and a board or body may elect one of its members president and another treasurer and may appoint a secretary.

§ 215. Bureaus, offices and positions continued. Except as otherwise provided in this act, all existing bureaus and divisions in a department, board, body or office, and their present names, functions, officers and employees shall continue until changed. The head of a department, board, body or office may create, abolish or consolidate bureaus, divisions, offices or positions therein, except bureaus, offices and positions created by statute.

§ 216. Subordinates; rules and regulations. The head of each department, board, body and office shall have authority to prescribe the duties of subordinates, and to make rules and regulations for government, administration, discipline, and conduct of

business, not inconsistent with statute or ordinance. All rules and regulations now in force are continued until altered or amended. A copy of the rules and regulations of a department, board, body or office certified by the head of such department, board, body or office, or the secretary or chief clerk thereof may be read in evidence.

§ 217. Official seals. The form and design of the official seal of a city department, board, body or office shall be that of the common seal of the city, with the name of the department, board, body or office therein. A city department, board, body or office now using a seal which conforms to such requirements may continue to have and use the same as its official seal. The board of estimate may authorize any other city department, board, body or office to have and use an official seal. The courts shall take official cognizance of such seals.

§ 218. Badges and uniforms. The head of a department, board, body or office may make rules requiring subordinates to wear badges or other insignia or uniforms or both, and prescribing their form, style and material and regulating the display and wearing thereof; provided, however, that no rule shall prescribe where or of whom such badges, insignia or uniforms shall be purchased or the price to be paid therefor.

§ 219. Expenses of departments. No expense shall be incurred by a department, board, body, office, officer or employee, and no contract shall be made unless an appropriation shall previously have been made sufficient to meet the expense thereof and there be an unexpended balance of such appropriation sufficient to meet such expense at the time it is incurred. Each officer and employee charged with the duty of expending moneys or of incurring obligations shall so regulate expenditures for any purpose that the same shall not in any one year exceed the amount appropriated therefor. No charge, claim or liability for any purpose shall be created against the city or a county for a sum in excess of the amount appropriated for such purpose or fixed pursuant to statute.

§ 220. Records to be kept and abstracts published. In every department, board, body or office, there shall be kept a record of all its transactions. Once a week a brief abstract, omitting formal language, shall be made of all contracts awarded and entered into for work and supplies containing the names and residences by street and number of the parties to the contracts and of their

sureties, if any. A copy of such abstract shall be promptly transmitted to and published in the City Record.

§ 221. Copies and inspection of records. Except as otherwise provided in this act, the head of each city department, board, body and office, except of the police and law departments, shall with reasonable promptness furnish to any taxpayer desiring the same a certified copy of any record or part thereof kept by any such department, board, body or office, upon payment in advance of five cents for every hundred words thereof. All records in a department, board, body or office, except police and law departments, and except records other than public records of the commissioner of accounts and statistics, shall at all times, subject to reasonable rules, be open to public inspection by a taxpayer. Such records shall not include opinions furnished by the law department. If such inspection be refused, a taxpayer, on his sworn petition describing the particular record that he desires to obtain a copy of or to inspect may, upon notice of not less than one day to the head of such department, board, body or office, apply to a justice of the supreme court for an order directing the furnishing of such copy or permission of such inspection as such justice shall determine.

§ 222. Official records as evidence. A copy of any paper, record, book, document, minutes or map filed in a department, board, body or office, when certified as a true copy by the head of the department, board, body or office or by a deputy, secretary or other officer performing the duties of a secretary, shall be admissible in evidence with the same force and effect as the original. When a subpoena is served upon an officer or employee requiring the production of an original paper, document, book, map, record or minutes, such officer or employee may furnish a copy certified as herein provided, unless the subpoena be accompanied by an order of the court or other tribunal having jurisdiction requiring the production of the original.

§ 223. Reports and statistics. Each head of a city department, board, body and office shall once in three months transmit to the mayor, in such form and detail as he may prescribe, a report of the condition and transactions of the department, board, body or office as the case may be. A copy of such report shall be simultaneously furnished the supervisor of the City Record for publication. Special reports upon any subject within the jurisdiction of a head of department, board, body or office shall be furnished

promptly, when required by the mayor, comptroller, board of estimate or board of aldermen. A corporation for which an appropriation is made in the budget shall, when required by the board of estimate and in such form as it may prescribe, furnish to it an annual report.

§ 224. Taking of proof and testimony. A board, body, officer or employee empowered by this act to take proof and testimony shall have all the powers of a person authorized to take and hear testimony as provided by section eight hundred and forty-three of the civil code, and of a person authorized by law to hear, try and determine a matter in relation to which proof may be taken as provided by section eight hundred and fifty-four of the civil code.

§ 225. Personal property; disposition of. Personal property of the city, no longer needed for public purposes, shall be sold at public auction upon ten days' public notice in the City Record to the highest bidder by the head of the department, board, body or office having control thereof; provided, that personal property may be exchanged for personal property of the same or greater value, or may be sold at private sale without public notice after approval in writing by the sinking fund commission or pursuant to rules and regulations adopted by said commission. The proceeds of each such sale shall be paid into the general fund for the reduction of taxation.

§ 226. Useless records. The appellate division of the supreme court in the first or second department upon petition of the head of a department, board, body or office may, by order direct such head of department, board, body or office to destroy any records or papers deposited or filed in the department, board, body or office which the court shall have determined to be useless. A copy of the petition together with a notice of the time of the hearing thereon shall be filed with the clerk of the appellate division, published in the City Record and served upon the mayor and comptroller at least twenty days prior to such hearing. Such additional notice shall be given to such other officers or persons as the court or a justice thereof may direct.

§ 227. Deputy or subordinate acting for principal. If in a department, board, body or office there be one or more deputies, while there be no head of the department, board, body or office by reason of vacancy, or while such head be absent or disabled from acting, the deputy if there be but one shall act. If there be

two or more deputies they shall act in the order of their rank as designated in their certificates of appointment; or if there be no such distinction in rank then in the order of their length of service in the department, board, body or office. If two or more deputies be of the same rank and of the same length of service the senior in age shall so act. If there be no deputy the head of the department, board, body or office, other than the mayor, may designate a subordinate to act in his place during his absence or disability. A deputy or subordinate so acting for his principal shall possess the powers and perform the duties of the principal, except the powers of appointment to and removal from office.

## CHAPTER VII.

### OFFICERS AND EMPLOYEES.

- Article 1. General provisions. (§§ 240-258.)  
2. Uniformed force. (§§ 270-280.)  
3. Retirement of officers and employees upon annuities. (§§ 290-291.)

## ARTICLE 1.

### GENERAL PROVISIONS.

- Section 240. Appointments and removals.  
241. Removal of certain city officers.  
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**Section 255.** Charges against officers; payment of expense of defense.

256. Officers, trustees of public property.

257. False impersonation of an officer or employee.

258. Resignations.

**Section 240.** Appointments and removals. Except as otherwise provided in this act or in the public officers law, the head of each department, board, body or office of the city and each county shall, without restriction or limitation, appoint and may at pleasure remove each subordinate whose appointment is directed by this act; and shall, in accordance with the provisions of the civil service law, appoint and may remove all other subordinates. Every person who shall be appointed or elected to a city or county office, position or employment shall receive a certificate of appointment or election. No person holding an office, position or employment classified by the municipal civil service commission as subject to competitive examination shall be removed until he has been allowed an opportunity to make an explanation; and the true grounds of removal shall in such case be entered upon the records of the department, board, body or office and a copy thereof shall be filed with the municipal civil service commission. A subordinate other than a member of the uniformed force of the police, fire or street cleaning department, in a department, board, body or office of the city or a county, who shall have been absent from duty without leave for ten consecutive days and without explanation during such period may be removed without notice and without trial or without being allowed an opportunity thereafter to make an explanation.

§ 241. Removal of certain city officers. The mayor, comptroller, president of the board of aldermen, a borough president or a coroner may be removed by the governor for neglect or dereliction in the performance of official duty or incompetency or incapacity to perform official duty or an act or delinquency seriously affecting his general character or fitness for office.

§ 242. Actions for salaries; proceedings for reinstatement; limitations. No action shall be maintained by a city or county officer or employee to recover salary or compensation for services or salary or compensation forfeited, deducted or withheld, unless such action be commenced within two years after the cause of action shall have accrued; but this section shall not be construed to extend the time in which actions upon causes heretofore ac-



crued must be brought. No proceeding shall be commenced to procure the reinstatement of a city or county officer or employee, unless such proceeding be instituted within four months after the occurrence of the act complained of.

§ 243. Abolished offices, positions and employments; status of incumbents. When an office, position or employment be abolished or become unnecessary or when the number of offices, positions or employments of a certain character be reduced, a person legally holding any such office, position or employment shall be deemed to be suspended without pay and shall, within two years thereafter, be entitled to reinstatement in the same office, position or employment, or appointment to a corresponding or similar office, position or employment, if a vacancy exist. When an office, position or employment be abolished or become unnecessary, the head of the department, board, body or office shall furnish the name of the person affected to the municipal civil service commission, with a statement of the dates of his suspensions and original appointment. The municipal civil service commission shall forthwith place his name upon a list of suspended employees for such office, position or employment or for a corresponding or similar office, position or employment. The commission shall certify persons for reinstatement from such list in consecutive order according to dates of original appointment, before certifying from any other list, except that certifications from lists for promotion in a department, board, body or office shall be made if there be no person therefrom on the list of suspended employees. The failure of a person to accept reinstatement, after reasonable notice, to an office, position or employment in the same borough at a salary or compensation not less than that provided for his previous office, position or employment shall constitute a relinquishment of his right to reinstatement. A person on any such list for reinstatement may be re-employed in the office, position or employment in which he was formerly employed or in any similar office, position or employment at a less compensation than theretofore received by him, and the acceptance of such employment shall constitute a relinquishment of his right to reinstatement, but the failure of any such person to accept, after reasonable notice, an office, position or employment at a less salary or compensation than the position formerly held by him shall not be held to be a relinquishment of his right to reinstatement.

§ 244. Incompatible offices, positions or employments. No city or county officer or employee shall during the hours fixed for the performance of duty of his office, position or employment perform the duties of any other public office, position or employment, except notary public, commissioner of deeds or an office, position or employment in the national guard. The acceptance by any officer or employee whose salary or compensation is paid out of the city treasury of an appointment by any court as trustee in bankruptcy, receiver, referee or commissioner of appraisal or assessment shall vacate his office and terminate his employment.

§ 245. Salaries and grades continued. Except as otherwise provided in this act, the salary or compensation of every city and county office, position and employment and every grade of office, position and employment in the service of the city and each county shall continue as now fixed until changed.

§ 246. Regulation of salaries. Subject to the limitations in this act or other statute, the board of estimate, with the concurrence of the board of aldermen, shall fix and may alter the salary or compensation for every city and county office, position and employment, including positions and employments in the labor class. Where the amount of the salary or compensation of an officer or employee of a county or a court is fixed by statute other than this act such salary or compensation shall not be reduced below the amount so fixed. Where by any other act power and authority is conferred upon a court or judicial officer to fix the salary or compensation of a subordinate such power and authority shall continue notwithstanding the provisions of this act. The board of estimate, with the concurrence of the board of aldermen, may authorize the payment of compensation to employees in the labor class who work more than eight hours in any one day.

§ 247. Salary deductions; fines. The head of a city or county department, board, body or office may cause deductions to be made from the salaries or compensation of the officers and employees therein, other than members of the uniformed forces of the police, fire or street cleaning departments, on account of absence from duty, or as a fine for delinquency or misconduct; provided, that no such deduction shall be made as a fine in excess of thirty days' pay.

§ 248. Leaves of absence; vacations. Each city or county officer and employee, other than an employee in the labor class, shall be entitled to annual vacation with full compensation for at least

two weeks in each calendar year. An annual vacation of two weeks with pay shall be granted each employee in the labor class who shall have been in the service for not less than nine months. The head of a department, board, body or office of the city or a county may grant to any officer or employee thereof, including per diem employees, in addition to annual vacation, leave of absence with partial compensation or without compensation; or leave of absence to a per diem employee with full compensation on holidays or half holidays. The head of a city or county department, board, body or office may grant to an employee thereof whose compensation is payable by the day who may be injured in the performance of his duties without negligence or default on his part, a leave of absence with pay which shall not exceed thirty days without the consent of the board of estimate.

§ 249. Suspension without pay. The head of a department, board, body or office may suspend for not more than one month without pay an officer or employee thereof pending the hearing and determination of charges against him or the making of an explanation, as the case may be. If the person so suspended be removed by such head he shall not be entitled to salary or compensation after suspension. If he be not so removed, he shall be entitled to full salary or compensation from the date of suspension to the date of reinstatement, less such deduction or fine as may be imposed.

§ 250. Pay-rolls; civil service restrictions. Salaries or compensation may be paid upon pay-rolls upon which each person named shall separately receipt for the amount paid to him, and in every case of payment upon a pay-roll the warrant for the aggregate amount thereof may be made payable to the paymaster, superintendent, foreman or other officer or employee designated for the purpose. No city or county officer or employee whose duty it is to sign or countersign warrants, shall draw, sign, issue or authorize the drawing, signing or issuing of a warrant on the chamberlain or other disbursing officer for the payment of salary or compensation to a person in the classified civil service of the city or a county, except upon certificate of the municipal civil service commission that all provisions of the civil service law and the rules adopted thereunder have been complied with, so far as such law and rules apply to the person in whose favor the warrant is drawn.

§ 251. Fees to be accounted for and paid over. No city officer or employee, except marshal or commissioner of deeds, shall have or receive to his own use any fee, perquisite, commission or percentage, but shall be paid a fixed salary or compensation, and all fees, percentages, perquisites and commissions received by him shall be the property of the city. Every city officer or employee who shall receive any fees, perquisites, commissions, percentages or other money which should be paid to the city shall, before he shall be entitled to receive any salary or compensation make, under oath, a detailed return to the comptroller showing the amount of all such fees, commissions, percentages, perquisites and moneys received by him since the last preceding report, the person from whom received, and the reason for payment, and shall produce the receipt of the chamberlain showing the payment to him of the aggregate amount thereof. All sums received as above or for licenses or permits, except as in this act otherwise expressly provided, shall be paid over weekly or monthly as directed by the comptroller, without deduction, by the officer or employee or department receiving them to the chamberlain, and a detailed return thereof under oath shall be made whenever and in such form as the comptroller may prescribe. The comptroller may require any such officer or employee to make such statement and return to him, if it shall not have been made as herein provided, and may examine such officer or employee under oath touching the amount of any fees, perquisites, commissions, percentages or moneys paid to or received by him in his official capacity.

§ 252. Interest in contracts prohibited. A city or county officer or employee shall not be interested directly or indirectly in a contract, work or business or in the performance or conduct thereof or in the sale of an article to the city or a county, the expense, price or consideration of which is payable either from the city treasury or by an assessment levied under or by virtue of any act or resolution of the board of estimate or other board, body or officer of the city; nor shall any such officer or employee be interested directly or indirectly in the purchase or lease of real estate or other property by or from the city or in the purchase or sale of a tax lien or the sale of any property by virtue of legal process at the suit of the city. A city or county officer or employee who, while holding office, position or employment shall knowingly become interested in the performance of any contract,

work or business or in the sale of an article or the purchase or lease of real estate or other property hereinabove referred to or shall acquire any interest therein, except by will or under the decedent's estate law, shall forfeit his office, position or employment. All contracts in which an officer or employee is or becomes interested shall, at the option of the board of estimate, be forfeited and void.

§ 253. Official bonds and undertakings. The board of aldermen, where no specific provision is made by law, shall by ordinance require each city or county officer or employee who receives or disburses public funds to furnish security for the faithful performance of his duties and the accounting for such funds. If the amount of such security be not so fixed, the head of the department, board, body or office may fix the same, subject to modification by ordinance. When this act provides for the giving of an official bond or undertaking with surety, such surety may be a responsible fidelity or surety company authorized to do business in the state of New York, satisfactory to the officer, board or body required to approve the surety. Except as otherwise provided in this act, every official bond or undertaking shall be filed in the office of the comptroller.

§ 254. Influencing legislation prohibited. No officer or employee of the city or a county shall be or become a member of any club, association or organization intended to influence legislation for or in behalf of the department, board, body or office in which he is employed or in behalf of any officer or employee thereof or contribute any money, directly or indirectly, for such purpose.

§ 255. Charges against officers; payment of expense of defense. The board of estimate may audit and allow as charges against the city the reasonable costs, counsel fees and expenses paid or incurred by the head of a department, board, body or office of the city or a county or a judge or justice of an inferior local court whose salary is paid from the city treasury who shall have been a prevailing party in an action or proceeding in a court or before the governor to remove him from office or to review or prohibit such removal or to obtain possession of his office; but no such charges shall be paid unless the corporation counsel and presiding justice of the appellate division of the supreme court certify the prevailing party and the value of the services rendered.

§ 256. Officers, trustees of public property. All city and county officers and employees are hereby declared trustees of the

property, funds and effects of the city and a county respectively, so far as such property, funds and effects are or may be committed to their management or control and every taxpayer residing in the city or a county is hereby declared to be a cestui que trust in respect to said property, funds and effects respectively; and any co-trustee or cestui que trust shall be entitled as against such a trustee and in regard to such property, funds and effects to all the rights, remedies and privileges provided by law for a co-trustee or cestui que trust, to prosecute and maintain an action to prevent waste and injury to any property, funds and estate held in trust; and such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the city or a county or by any co-trustee or cestui que trust aforesaid. The remedies herein provided shall be in addition to those provided by law. An officer or employee of the city shall not, directly or indirectly, under penalty of removal, receive for his own use or benefit for services rendered in his office, position or employment any present, fee, gift or emolument, except as otherwise provided in this act.

§ 257. False impersonation of an officer or employee. No person shall falsely represent himself or another to be or as authorized to act for a city or county officer or employee or use, wear or display without authority a shield or other badge or emblem such as is worn by a city or county officer or employee.

§ 258. Resignations. An officer or employee may deliver to the head of the department, board, body or office, or if such head consists of more than one member to a member thereof, a written resignation. Such resignation shall, except when charges are pending, take effect upon delivery and shall be filed with the records of such department, board, body or office. The resignation of an officer or employee against whom charges are pending shall not take effect until it shall have been accepted in writing by the head of the department, board, body or office by acceptance indorsed on the resignation.

## ARTICLE 2.

### UNIFORMED FORCE.

Section 270. Government of force.

271. Punishment; police, fire and street cleaning departments.

- Section 272. **Absence or desertion in police, fire and street cleaning departments.**
- 273. Leave of absence.
  - 274. Salary deductions.
  - 275. Arrest, indictment or conviction.
  - 276. Certiorari.
  - 277. Salaries or compensation not to be reduced.
  - 278. Exemption from military and jury duty and civil arrest.
  - 279. Political activity restricted.
  - 280. Rehearing of charges; reinstatement.

Section 270. Government of force. Upon the recommendation of the head of a department the board of estimate, by the vote of all of its members, may constitute a body of subordinates in the department the uniformed force thereof. The head of a department containing a uniformed force shall make and enforce orders, rules and regulations for the discipline, government and disposition thereof and the determination of charges against any member.

§ 271. Punishment; police, fire and street cleaning departments. A member of the uniformed force of the police, fire or street cleaning department shall be punished only upon a determination of the head of the department, after hearing and examination by him or a deputy of written charges upon reasonable notice of not less than forty-eight hours to such member and opportunity to appear and be heard in person and by counsel and give evidence in his defense, but a member may be punished without notice for absence without leave or upon arrest, indictment or conviction. A member of the uniformed force of the police, fire or street cleaning department found guilty upon charges, after notice and opportunity to be heard in his defense, of neglect or dereliction in the performance of official duty, or violation of rules and regulations, or disobedience of orders, or absence without leave, or other breach of discipline, or incompetency to perform official duty, or an act or delinquency seriously affecting his general character or fitness for office, may be punished by the head of the department by reprimand, forfeiture and the withholding of salary or compensation for a specified time, suspension from duty for a specified time and the withholding of salary or compensation during such suspension or by dismissal from the force. Suspension shall not exceed thirty days in the police or

street cleaning departments or ten days in the fire department. Not more than thirty days' salary or compensation shall be forfeited or withheld for any offense.

§ 272. Absence or desertion in police, fire and street cleaning departments. No member of the uniformed force of the police, fire or street cleaning department shall withdraw or resign from the force except by permission of the head of the department. Absence without leave of a member of any such force for five consecutive days shall constitute a resignation and the member so absent shall at the expiration of such period cease to be a member of such force and shall be dismissed therefrom without notice.

§ 273. Leave of absence. No leave of absence exceeding twenty days in any one year shall be granted or allowed a member of an uniformed force except upon condition that such member waive and release all claim to not less than one-half his salary or compensation for the period of such absence. This section shall not apply to the members of any such force disabled by sickness or injuries which, in the opinion of the head of the department, were incurred in the service and the line of duty.

§ 274. Salary deductions. The head of a department may deduct and withhold salary or compensation from any member of an uniformed force of the department on account of absence without leave or because of sickness or other disability, physical or mental, not incurred in the service and line of duty; provided, however, that such deduction shall not exceed one-half the salary or compensation for the period of such absence, except in case of absence without leave.

§ 275. Arrest, indictment or conviction. A member of the uniformed force of a department who shall be indicted or arrested for a felony may be forthwith suspended from duty without compensation pending final disposition of the proceeding, and if finally convicted thereof shall be immediately dismissed from the service without notice.

§ 276. Certiorari. The dismissal of a member of the uniformed force of a department shall be subject to review on certiorari.

§ 277. Salaries or compensation not to be reduced. The salaries or compensation now fixed by statute for the several ranks and grades of the uniformed force of a department shall not be reduced.



§ 278. Exemption from military and jury duty and civil arrest. A member of the uniformed force of a department shall not be liable to military or jury duty. Members of the uniformed force of the police and fire departments shall not be liable to arrest on civil process while on active duty.

§ 279. Political activity restricted. A member of the uniformed force of the police or fire department shall not contribute, directly or indirectly, to a political fund or be a member of a political club or association.

§ 280. Rehearing of charges; reinstatement. Upon written application to the mayor by the person aggrieved and the written consent of the mayor setting forth his reasons, the head of a department having an uniformed force may rehear the charges upon which a member of the force shall have been dismissed; provided the application be made within one year from the date of removal and such former member waive in writing all claim against the city for salary. If the head of such department determine that such member was illegally or unjustly dismissed he may reinstate him and allow him the whole or a part of the time since dismissal to be applied on his time of service in the department, or grant such other relief as such head of department may determine just or affirm the dismissal.

### ARTICLE 3.

#### RETIREMENT OF OFFICERS AND EMPLOYEES UPON ANNUITIES.

##### Section 290. Retirement of officers and employees.

##### 291. Annuities.

§ 290. Retirement of officers and employees. The head of a department, board, body or office of the city or a county may recommend to the board of estimate the retirement from active service of an officer or employee thereof, other than one entitled to share in an existing pension, relief or retirement fund, who shall have been in the employ of the city or the city and any of the municipalities, or parts thereof consolidated to form the city of New York or a county, for a period of at least thirty years and who shall be physically or mentally incapacitated for the performance of the duties of his office, position or employment. The term of service of any such officer or employee shall not be affected by any change in his title, duty or salary or by any promotion, vacation, leave of absence, temporary disability by reason

of sickness or accident, transfer from one department, board, body or office to another during his period of service or by a change in any department, board, body or office in which service shall have been paid for by fees to a salaried office. The board of estimate may retire from active service any officer or employee recommended for retirement; reasonable notice of the recommendation shall be given to the person affected thereby and he shall be given an opportunity by the board to show cause why he should not be retired. The reasons for retirement shall be entered upon the minutes of the board.

§ 291. Annuities. A person so retired from active service shall be granted by the board of estimate an annuity to be fixed by the board not exceeding, however, one-half of the amount which his annual salary or compensation averaged for the period of three years immediately prior to his retirement. The annuities so granted shall be paid in equal monthly instalments during the lifetime of the person retired.

## CHAPTER VIII.

### DEPARTMENT OF FINANCE.

Section 300. The comptroller; election, term, bond, salary.

301. Vacancy, how filled.

302. Deputies; secretary; auditors.

303. Jurisdiction.

304. Adjustment of claims; restrictions.

305. Auditing bureau.

306. Statements of balances.

307. Financial statement; publication required.

308. Execution of conveyances and leases.

309. Payments to private institutions.

Section 300. The comptroller; election, term, bond, salary. The head of the department shall be the comptroller. A comptroller shall be elected at the general election in the year nineteen hundred and thirteen and every four years thereafter and shall hold office for a term of four years. He shall give a bond to the city in the sum of two hundred and fifty thousand dollars, conditioned upon the faithful discharge of his duties, the sureties thereon to be approved by the mayor. The salary of comptroller shall be fifteen thousand dollars a year.

§ 301. Vacancy, how filled. A vacancy in the office of comptroller shall be filled by the mayor. The term of office of the person so appointed shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election held not less than thirty days after such vacancy occur.

§ 302. Deputies; secretary; auditors. The comptroller shall appoint two deputies, an assistant deputy and a secretary of the department, and may appoint auditors and deputy auditors of accounts. The comptroller may designate a deputy or deputies to perform any of the duties and exercise any of the powers of the office of comptroller for a period not extending beyond his term of office. The comptroller may designate and authorize the assistant deputy or other subordinate to sign warrants drawn upon the chamberlain, and warrants so signed shall have the same force and effect as if signed by the comptroller. Each such designation shall be in writing and filed in the offices of the mayor and comptroller and may in like manner be revoked.

§ 303. Jurisdiction. The department shall have control of the fiscal concerns of the city and each county except as otherwise provided in this act. The comptroller shall be the chief auditor, general comptroller of accounts and chief fiscal officer of the city. The other departments, boards, bodies and offices of the city and each county shall keep accounts and statistical records in such form as the comptroller prescribe; and all accounts rendered to or kept in such departments, boards, bodies and offices shall be subject to the audit, inspection and revision of the officers of the finance department under the general supervision of the comptroller. The comptroller shall prescribe the forms of keeping and rendering accounts of all public moneys received and disbursed and of all public property, and, except as herein otherwise provided, the manner in which all salaries shall be drawn and all creditors, officers and employees of the city and the counties be paid.

§ 304. Adjustment of claims; restrictions. Except as otherwise provided in this act, the comptroller shall examine, audit, adjust and settle all claims in favor of or against the city or a county or in which the city or a county is concerned as debtor or creditor. The comptroller may require a person having or pre-

senting a claim against the city or a county or an assignor to be sworn before him or a deputy and to answer orally as to any facts relative to the claim. Claims against the city or a county or claims payable in the first instance from moneys in the city treasury for services rendered or work done or supplies furnished shall not be paid unless an auditor of accounts certify that the charges therefor are just and reasonable, except (1) claims reduced to judgment, or (2) awards, costs, charges and expenses duly taxed or ordered paid in judicial proceedings, or (3) claims arising under provisions of contracts made after public letting, or (4) claims settled and adjusted by the comptroller. The power given to audit, adjust and settle claims shall not authorize the comptroller or a subordinate to dispute the amount of a salary established by statute or by or under the authority of a department, board, body, office or officer authorized to establish the same, nor to question the due performance of duties by an officer or employee, except when necessary to prevent fraud or waste.

§ 305. Auditing bureau. There shall be in the department an auditing bureau which, under the supervision of the comptroller, shall have charge of the auditing of claims. The chief officers of the bureau shall be auditors of accounts. There shall also be deputy auditors of accounts who shall, when authorized in writing by the comptroller, perform the duties of auditors of accounts. The auditing bureau shall keep an account of each claim for and against the city and of the sum allowed on each and certify the same to the comptroller with the reasons for its action.

§ 306. Statements of balances. The head of each department, board, body or office of the city and each county, shall monthly furnish to the comptroller a statement of the balance of each appropriation made for such department, board, body or office remaining after deducting outstanding charges against such appropriation.

§ 307. Financial statement; publication required. The comptroller shall publish in the City Record within two months after the close of each calendar year a detailed statement of the city and county receipts and expenditures during the preceding year and the cash balance or surplus, specifying the different sources of revenue, the amount received from each, the several appropriations made, the objects of the same, the amount expended under each, the money borrowed, the authority under which each loan was made and the terms on which it was obtained.

§ 308. Execution of conveyances and leases. Except as otherwise provided in this act, the comptroller shall, under the direction of the sinking fund commission, in the name and in behalf of the city execute all conveyances and leases of real property.

§ 309. Payments to private institutions. The comptroller shall not draw a warrant for payment by the city to a charitable, eleemosynary or reformatory institution wholly or partly under private control for the care, support, secular education or maintenance of a child surrendered to such institution or committed to, received or retained therein in accordance with any provision of this act or other statute, except upon the certificate of the commissioner of charities that such child has been received and is retained by such institution pursuant to the rules and regulations established by the state board of charities.

## CHAPTER IX.

### DEPARTMENT OF CITY TREASURY.

Article 1. The chamberlain. (§§ 320-328.)

2. Receiver of taxes; collector of assessments and arrears.  
(§§ 340-362.)

3. Sale of tax liens. (§§ 375-399.)

## ARTICLE 1.

### THE CHAMBERLAIN.

Section 320. Chamberlain; term, bond.

321. Jurisdiction of chamberlain.

322. Chamberlain treasurer of the city and the counties; city depositories.

323. Security required of depositories.

324. Disbursement of city money.

325. Reports.

326. Appropriations; records; overdrafts prohibited.

327. Accounts of chamberlain; examinations.

328. Assessment defined.

Section 320. Chamberlain; term, bond. The head of the department shall be the chamberlain. He shall appoint two deputies and a secretary of the department and may appoint a paymaster. The chamberlain shall give a bond to the city in the penal sum of three hundred thousand dollars with not less

than four sufficient sureties to be approved by the board of estimate conditioned upon the faithful discharge of his duties. All commissions or compensation paid to him for receiving and paying over state taxes and all interest on deposits of public moneys shall be reported by him to the sinking fund commission and deposited by him subject to its order. In case of official misconduct or default on the part of the chamberlain, or a subordinate, an action upon his bond may be maintained by the attorney-general or by the city, and the proceeds therefrom, after payment of the expenses of the litigation, shall be distributed among the persons entitled thereto.

§ 321. Jurisdiction of chamberlain. The chamberlain shall have control of

1. The reception and safe-keeping of all moneys paid into the treasury of the city or for which the city is responsible;
2. The collection of taxes and water rents returned;
3. The collection of assessments for local improvements and of arrears of taxes including water rents in arrear;
4. The collection of market rents and revenues;
5. The payment of all money from the city treasury.

§ 322. Chamberlain treasurer of the city and the counties; city depositories. The chamberlain shall be the treasurer of the city and shall possess the powers and perform the duties of a county treasurer of each county. He shall receive all moneys paid into the treasury of the city. He shall deposit to his account as chamberlain all city and county moneys which come into his hands on the day of their receipt, or on the next succeeding business day in such banks or trust companies as shall have been designated city depositories by the mayor, comptroller and chamberlain, or a majority of them, by written designation filed in the offices of comptroller and chamberlain; but no deposit at any one time in any city depository shall exceed one-half of the amount of its capital and net surplus, nor shall any bank or trust company be so designated unless it agree to pay interest on daily balances at a rate to be fixed quarterly by the mayor, comptroller and chamberlain, or a majority of them. The chamberlain shall keep bank-books in which shall be entered all accounts of deposit and withdrawal, and each city depository shall transmit weekly to the comptroller a statement of the moneys received and paid by it on account of the city treasury.

§ 323. Security required of depositories. Banks or trust companies designated for the deposit of city moneys shall before de-

posits are made, other than such as are of a temporary character and specifically relate to the current business of the city, severally execute and file with the chamberlain a bond to the city in such form and in such amount as may be prescribed and approved by the mayor, chamberlain and comptroller for the safe-keeping and prompt payment of such moneys on legal demand therefor with interest at the rate agreed upon and, as surety for such bond, shall deposit with the comptroller outstanding unmatured bonds, corporate stock, revenue bonds, assessment bonds or other obligations issued by the city of New York, the value of which at existing prices on the open market shall be equal to the estimated amount of the proposed deposit, for which the chamberlain and comptroller shall deliver a certificate of deposit containing the conditions of said bond. On the withdrawal of all or a part of the funds deposited in any depository and a closing or depleting of the account thereof, or in the event of the deposit actually made being less than the estimated amount of such deposit, the chamberlain and comptroller shall certify to such settlement or depletion or difference and direct the surrender of the whole or a proportionate share of such deposit to the owner or owners thereof.

§ 324. Disbursement of city money. The chamberlain shall pay warrants drawn on the treasury only when signed by the comptroller and countersigned by the mayor. The chamberlain shall draw moneys only by check signed by him as chamberlain and subjoined and attached to such warrants; and a city depository shall pay city moneys only upon such checks; but this provision shall not apply to checks transferring funds from one city depository to another. The chamberlain may designate in writing clerks to act as warrant clerks and sign checks in his name, except checks transferring funds from one depository to another. Except as otherwise provided in this act, moneys appropriated in the annual budget or by a special appropriation shall be expended only in accordance with the conditions governing such expenditure, if any, fixed by the board of estimate and contained in such budget or special appropriation. No payment shall be made from appropriations made in the budget for emergencies unless authorized by the vote of members of the board of estimate entitled to cast at least twelve votes. Payments to heads of departments, boards, bodies or offices of sums appropriated for petty cash purposes shall be made in such instalments as the board of estimate determine, and a second or further instalment shall not be paid until the expenditures made from the preceding instalment shall

have been fully accounted for and approved by the comptroller.

§ 325. Reports. The chamberlain shall report weekly in writing to the mayor and to the comptroller all moneys received by him, the amount of warrants paid by him and the amount remaining to the credit of the city. He shall render to the board of aldermen and to the board of estimate at the first meeting of each in the month succeeding that in which he enters upon his office an exact statement of the balance in the treasury to the credit of the city, with a summary of the receipts and payments since the last preceding report.

§ 326. Appropriations; records; overdrafts prohibited. The chamberlain shall keep books showing the amounts of all appropriations and all payments on account thereof, and no warrant shall be paid on account of an appropriation after the amount appropriated shall have been expended.

§ 327. Accounts of chamberlain; examinations. The chamberlain shall exhibit his bank-books to the comptroller on the first Tuesday of each month and at any other time when required. The accounts and vouchers of the chamberlain shall be examined quarterly by the commissioner of accounts and statistics and his accounts shall be annually closed on the last day of December. The commissioner shall certify and report to the mayor, comptroller, board of estimate and the board of aldermen in the following February, as follows:

1. The amount of moneys received into the treasury during the preceding calendar year;
2. The amount of moneys paid out during the same period upon warrants drawn on the treasury by the comptroller and whether the comptroller had power by law or ordinance to draw such warrants;
3. The amount of moneys received by the chamberlain in office at the time of the last examination, if he entered upon the execution of his duties subsequent to the last preceding report;
4. The balance in the treasury on the last day of December;
5. The amount of moneys borrowed for or on the credit of the city during such year;
6. The amount of each class of obligations of the city issued during such year with the purposes for which and the authority under which they were issued.

If the commissioner find that warrants of the comptroller have been drawn without authority of law or ordinance, he shall specify the same with the reasons for such finding.



§ 328. Assessment defined. "Assessment" wherever used in this chapter means an assessment for a local improvement.

## ARTICLE 2.

### RECEIVER OF TAXES; COLLECTOR OF ASSESSMENTS AND ARREARS.

Section 340. Receiver of taxes; collector of assessments and arrears; bonds.

341. Deputies; bonds.

342. Renewal of bonds.

343. Main and branch offices.

344. Daily statement and payment of taxes.

345. Failure to report to chamberlain or comptroller.

346. Account of taxes received; daily statement to comptroller; credit.

347. Receiver of taxes to return arrears to collector.

348. Actions for personal taxes.

349. Notice of confirmation of assessment.

350. Assessment lists to be filed.

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361. Affidavits of publication of necessary notices to be preserved.

362. Notification of assessments.

Section 340. Receiver of taxes; collector of assessments and arrears; bonds. The chamberlain shall appoint a receiver of taxes and a collector of assessments and arrears each of whom shall, before entering upon the duties of his office, give a bond to the city, to be approved by the chamberlain and comptroller in such sum as shall be fixed by the board of estimate conditioned for the faith-

ful performance of the duties of his office. Such bonds shall be filed and remain in the office of the chamberlain and true copies thereof certified by the chamberlain shall be filed in the office of the clerk of each of the counties and shall be public records. In case a certificate of the adjustment of the accounts of a receiver or collector be made as hereinafter provided a true copy thereof, certified by the chamberlain, shall be filed in the office of each such county clerk. Such record shall be notice for all purposes under the real property law.

§ 341. Deputies; bonds. The receiver of taxes and the collector of assessments and arrears shall each appoint a deputy in and for each borough. Each deputy shall give a bond conditioned upon the faithful performance of his duties, to be approved by the receiver of taxes or the collector of assessments and arrears, as the case may be, and the comptroller and chamberlain and in such penal sum as they determine. The receiver of taxes and the collector of assessments and arrears shall each be liable for the acts and defaults of his deputies. Each deputy shall have all the powers and be subject to all the duties of the officer appointing him.

§ 342. Renewal of bonds. If at any time during the continuance in office of a receiver of taxes or collector of assessments and arrears, or a deputy of either, the chamberlain deem a surety on any bond to be insufficient, he may require such receiver, collector or deputy, within a specified period of not less than ten days, to give a new bond to be approved in like manner as the original. If such officer fail to furnish such bond within the time so specified, the chamberlain may declare his office vacant.

§ 343. Main and branch offices. The receiver of taxes and the collector of assessments and arrears shall each have his chief office in the borough of Manhattan and a branch office in each of the other boroughs. Taxes, assessments and arrears due upon property shall be payable at the office of the receiver of taxes or collector of assessments and arrears, respectively, in the borough in which the property is situated.

§ 344. Daily statement and payment of taxes. The receiver of taxes and the deputy in each borough shall enter in a suitable book the sums received for taxes and the names of the persons on whose account payments of taxes are made. The receiver shall each day render a statement to the chamberlain of the taxes paid in each borough on the preceding day and deliver

to him the moneys and certificates of deposit so received. The chamberlain shall receipt therefor in duplicate. The receiver shall forthwith file one duplicate with the comptroller and retain the other. The receiver and the deputy receiver in each borough shall daily at the close of office hours deposit the taxes received by him in a city depository in the borough and take a certificate of deposit therefor; and before noon of the succeeding day each such deputy shall transmit to the receiver a statement of the taxes received together with such certificates of deposit.

§ 345. Failure to report to chamberlain or comptroller. If the receiver of taxes fail to file with the chamberlain or comptroller the required statement or receipt or make the required daily payments, the chamberlain shall forthwith suspend him from office. In case of like default by a deputy receiver the receiver shall forthwith suspend him from office. In case of such suspension the chamberlain or receiver, as the case may be, shall appoint a suitable person to perform the duties of the officer so suspended, who shall continue to act as such officer with all the powers conferred upon him by this act until the officer suspended shall be restored or another person shall have been appointed. On making such temporary appointment, the chamberlain or receiver shall require from the person so appointed a bond in all respects like that given by the officer in whose place he was appointed, to be approved in like manner.

§ 346. Account of taxes received; daily statement to comptroller; credit. The receiver and each deputy shall enter in a column upon each book of the tax-roll in his possession, opposite each tax entry on account of which payment shall have been made, the fact and date of such payment and the amount thereof, and also enter in suitable books the several amounts and the names of the respective parties on whose account payments of taxes shall have been made; the receiver shall daily file with the comptroller a detailed statement of the taxes paid in each borough on the preceding day specifying the names of the parties on whose account the same shall have been paid. The comptroller shall on each day immediately after receiving such statement compare the same with the duplicate receipt of the chamberlain filed with him, and if the aggregate amount shown by the statements shall be the same as that of the receipt, he shall credit the chamberlain with such amount.

§ 347. Receiver of taxes to return arrears to collector. The receiver of taxes shall on the first day of March in each year make a return to the collector of assessments and arrears of all taxes on real estate and of the water rents added thereto remaining unpaid, and shall notify the comptroller of the aggregate amount of arrears so returned and balance on his books the accounts of the arrears so returned by charging the amount thereof to the said collector, and shall thereafter receive no payments on account of arrears so returned, but may nevertheless certify to the collector of assessments and arrears any errors which shall upon such certificate be corrected by the said collector at any time before settlement.

§ 348. Actions for personal taxes. In the year in which they are payable the receiver of taxes shall on or before the first day of July send all cases of unpaid personal taxes, other than taxes on bank shares, and on or before the first day of December all cases of unpaid taxes on bank shares to the corporation counsel for collection. Any such unpaid taxes may be recovered with interest and costs by the city in an action in a court of record; but a judgment recovered in such an action shall not be a lien on or chargeable against real property. The court in which any suit or proceeding shall have been commenced to enforce the payment of a tax for personal property may on motion of either party dismiss the suit or proceeding absolutely without costs or conditionally upon the payment of costs; or may on the facts in its discretion dismiss such suit or proceeding on the payment of such part of the tax and costs as shall be just in any case where it shall be satisfied that the persons taxed are unable for want of property to pay the tax in whole or in part, or where for other reasons upon the facts as they existed, either before or after the assessment was made, it appear to the court just that the tax should not be paid; and the court may direct the cancellation or reduction of the tax. The imposition of costs in such cases shall be discretionary with the court. All suits or proceedings for the collection of personal taxes must be commenced within one year from the date after such taxes shall have been sent to the corporation counsel for collection. The corporation counsel shall pay over under oath to the receiver of taxes monthly all taxes collected by him. If a suit or proceeding be dismissed under this section, on payment of a portion of the tax a copy of the order of the court shall be filed with the receiver of

taxes and a note of the contents of such order shall be entered upon the tax-roll. The corporation counsel shall report to the tax department on the first day of September in each year all cases dismissed on account of the inability of the person to pay the tax, and the tax department may strike the names of all such persons from the assessment-rolls for the succeeding year.

§ 349. Notice of confirmation of assessment. The chamberlain shall give public notice by advertisement for at least ten days in the City Record as soon as practicable and within ten days after the confirmation of an assessment that the same has been confirmed, specifying the title of such assessment and the date of its confirmation and also the date of entry in the office of the collector of assessments and arrears, and of the time or times of payment and rate or rates of interest fixed therefor pursuant to this act, and that interest thereon will be collected accordingly.

§ 350. Assessment lists to be filed. There shall be kept in the office of the collector of assessments and arrears a full and complete record in detail of all lists of assessments confirmed, whether by the supreme court or the board of revision or the board of assessors, with the date of confirmation and the date of entry in such record, which record shall be open to inspection during office hours, and the same shall be received as presumptive evidence of the facts therein contained. If any such assessment list affect property situated in a borough, other than the borough of Manhattan, a copy of such list shall forthwith be transmitted to and filed in the office of the collector of assessments and arrears in the borough in which the property so affected is situated.

§ 351. Lien of taxes, assessments and water rents. Taxes and assessments for local improvements and interest thereon and all water rents included in tax-rolls and the interest and charges thereon, heretofore or hereafter laid upon any real property, shall continue to be until paid a lien thereon and shall be preferred in payment to all other charges. An assessment for a local improvement shall not be deemed fully confirmed so as to be due and be a lien upon the real property affected thereby until ten days after the title thereof with the date of confirmation shall have been entered with the date of such entry in the record of the titles of assessments confirmed to be kept in the office of the collector of assessments and arrears.

§ 352. Collection of certain assessments heretofore payable in instalments. Where by any statute in force on the thirty-first day of December, eighteen hundred and ninety-seven, assessments

for local improvements shall have been made payable in instalments or collectible in or with the taxes levied of any year, such assessments and instalments shall be levied and be received by the receiver of taxes and collector of assessments and arrears, and the collection thereof enforced as provided in this act for other tax liens.

§ 353. Interest on assessments for local improvements. Except as otherwise provided in this act, if an assessment for a local improvement remain unpaid for a period of sixty days after the date of entry thereof in the record of titles of assessments, interest thereon shall become due and payable at the rate of seven per centum per annum from the date when such assessment became a lien to the date of payment.

§ 354. Payment of assessment by instalments. The board of estimate may determine that the expense of a local improvement to be assessed upon the property deemed benefited be payable in not to exceed five equal annual instalments. If the board so determine, the first instalment shall become due and payable as provided in this act for an assessment payable in one payment. Of the remaining instalments, one shall become due and payable annually thereafter on the same date as the date of entry of the assessment in the record of titles of assessments with interest thereon at the rate of five per centum per annum from the date when the assessment became a lien. After the time herein specified for an instalment to become due and payable such instalment if unpaid together with accrued interest shall bear interest at the rate of seven per centum per annum. Any instalment may until the lien thereof be sold be paid at any time with such interest to the date of payment. If an instalment and the interest thereon be not paid within three years after the time herein specified for payment thereof, the entire assessment, less such part thereof as shall theretofore have been paid, shall become due and payable and the tax lien of the entire assessment may be immediately sold.

§ 355. Apportionment and part payment of assessment. If an assessment for a local improvement be made upon real property a person claiming any divided or undivided part thereof may pay such part of the assessment and of the interest and charges due or charged thereon as the chamberlain may deem to be just and equitable; and the remainder of the sum assessed together with the interest and charges shall be a lien upon the residue only of the real property, and the tax lien upon such

residue may be sold to satisfy the residue of such assessment, interest, or charges thereon in the same manner as though the residue of the assessment had been imposed only upon such residue of real property.

§ 356. Entry of "arrears" and water rents in tax-roll. The collector of assessments and arrears shall annually between the fifteenth day of April and the first day of May cause to be entered on the tax-roll the word "arrears" opposite the tax entry of each parcel of real property on which there shall remain unpaid any arrears of taxes or any unpaid water rents returned to him by the receiver of taxes or any assessment which was due or confirmed one month prior to the first day of February next preceding. The receiver of taxes shall between the first day of April and the fifteenth day of April of each year enter upon the tax roll with each entry of real property thereon the amount, if any, of the unpaid water rents returned in that year by the commissioner of water, gas and electricity chargeable against such property.

§ 357. Bills of arrears; searches. The collector of assessments and arrears, upon the requisition of the owner, the proposed vendee under a contract of sale, a mortgagee, a person having a vested or contingent interest in any real property or a duly authorized agent shall furnish a bill of all arrears of taxes and of taxes with the water rents added on any such property which were due prior to the first day of March next preceding and of assessments which are due and payable; and upon the payment of the said bill (which shall be called a "bill of arrears of assessments, taxes and water rents"), his receipt thereon, countersigned by the chamberlain, shall be conclusive evidence of such payment. The chamberlain shall cause to be kept a duplicate account of amounts so collected and when collected. If no such arrears or assessments be found, the collector of assessments and arrears shall deliver his certificate, countersigned by the chamberlain, that there are no such arrears or assessments on said real property, which certificate shall forever free the said real property from all such arrears and assessments, but not from the lien of any tax lien duly sold. Fees for such bills of arrears, searches and certificates shall be regulated by the chamberlain and be paid into the city treasury.

§ 358. Tax bills to show arrears; notice when tax lien will be sold. There shall be a column for "arrears" in every tax bill in which shall be set opposite the statement of tax the word

"arrears," if there be entries on the tax-roll of arrears of taxes or taxes with water rents added or unpaid assessments chargeable upon the property or if tax liens thereon have been sold which are redeemable, and at the bottom of the bill shall be a notice that when any tax or any water rents on the tax-roll shall remain unpaid for three years or any assessment shall remain unpaid for a period of three years after it became a lien or an installment shall have become due the tax lien on the property will be sold to satisfy such arrears, and that particulars of such arrears may be obtained and payment thereof made at the office of the collector of assessments and arrears. Failure to insert the word arrears in a tax bill shall not affect the validity or collectibility of any item in arrears or impose any liability upon the city or any officer or employee.

§ 359. Interest on arrears. Unless otherwise provided in this act, interest shall hereafter be charged and collected at the rate of seven per centum per annum on all assessments and on all arrears of taxes returned to the collector of assessments and arrears from the time they become due and on water rents and the penalties thereon from the time the taxes to which they are added become due until the date of payment. The rate of interest upon any tax, assessment or water rent shall not be reduced below the amount fixed by law.

§ 360. Examination of accounts of receiver and collector and their deputies. Whenever a receiver of taxes or a deputy receiver or a collector of assessments and arrears or a deputy collector shall cease to hold office or shall execute and file a new bond, the chamberlain shall within one year thereafter examine and adjust the accounts of such receiver or collector or deputy, and if the same be found correct the chamberlain shall cause a certificate of adjustment to be filed with the bond of such officer and such certificate so filed shall be a full discharge and satisfaction of the condition of such bond and the lien or liens thereby created.

§ 361. Affidavits of publication of necessary notices to be preserved. The collector of assessments and arrears shall procure, preserve and register in his office affidavits of the publication of all the notices by this chapter required to be published and such affidavits shall be presumptive proof of such publication in all courts.

§ 362. Notification of assessments. In the office of the collector of assessments and arrears there shall be a notification clerk. The owner or any person interested in any real property may file with



the notification clerk a statement containing a brief description of real property sufficient to enable the clerk to identify the same and a statement of the applicant's interest therein and post-office address together with a request that such real property be registered in the name of the applicant. The notification clerk shall thereupon register such particulars in a volume to be kept by him. Within twenty days after an assessment for a local improvement shall have been entered and list thereof filed in the bureau, the notification clerk shall mail a notice addressed to each person in whose name a parcel affected by such assessment is registered at his registered post-office address containing the description of the real property, the amount assessed thereon, date of confirmation, title of the improvement, the interest or penalty imposed for nonpayment of the assessment and the date from which the interest or penalty will be computed. Failure to give or any error in such notice shall not affect the validity or collectibility of the assessment or impose any liability upon the city or an officer or employee.

### ARTICLE 3.

#### SALE OF TAX LIENS.

- Section 375. Sale of tax lien; notice requiring payment.
376. Conduct of sale.
377. Cancellation of leases or certificates or transfers of tax liens held by city.
378. Suspension or postponement of sale.
379. Deposit by purchaser; bids by city; forfeiture of deposit; resales.
380. Transfers of tax liens.
381. Record of transfers of tax liens.
382. Rights of purchaser of tax lien.
383. Discharge of tax lien.
384. Exemption from taxation of tax liens and transfers.
385. Foreclosure of tax lien.
386. Pleading transfer of tax lien.
387. Presumption of validity of tax lien.
388. Judgment of foreclosure of tax lien.
389. Effect of judgment foreclosing tax lien.
390. Disposition of surplus.
391. Procedure if no bid for tax lien be received.

- Section 392. Reimbursement for invalid, defective or ineffectual tax liens or transfers of tax liens.
393. Reimbursement when part of tax lien is invalid, defective or ineffectual.
394. Transfers of tax liens may be questioned; examination by corporation counsel.
395. Foreclosed tax lien not to be included as "arrears."
396. Corporation counsel to protect interests of city.
397. Defective or invalid tax lien or transfer; new sale.
398. Lost transfer of tax lien; duplicate.
399. Apportionment of tax liens and transfers of tax liens.

Section 375. Sale of tax lien; notice requiring payment. The term real property as used in this article means real property as defined by the tax law. The right of the city to enforce payment of taxes, assessments and water rents and the lien thereof may be sold by the city, and after such sale shall be transferred as provided in this chapter. The right and lien so sold shall be called "tax lien" and the instrument by which it is assigned shall be called "transfer of tax lien." When a tax on real property shall have remained unpaid for three years or any water rents entered on a tax-roll shall have remained unpaid for three years from the time they were due and payable to the receiver of taxes or an assessment on real property for a local improvement not payable in installments or other assessment shall have remained unpaid for the term of three years from the time the same shall have been entered and payable in the office of the collector of assessments and arrears or an installment of an assessment for a local improvement shall have remained unpaid for three years after the same shall have become due and payable, the collector of assessments and arrears, under the direction of the chamberlain, may advertise the tax liens on any such real property for sale, including in such advertisement the tax liens for all items up to a day named in the advertisement prior to which all such items became due, and by such advertisement the owners of such real property shall be notified to pay to the collector the amounts of such unpaid tax or assessment or water rent and penalties together with the interest thereon to the time of payment with the charges of such notice and advertisement, and notice shall be given by such advertisement that if default be made in such payment the tax lien on such real property will be sold at public auction at a day and place

therein specified for the lowest rate of interest, not exceeding twelve per centum per annum, at which any person will offer to take the same in consideration of advancing the said tax and assessment and water rents and penalties, as the case may be, the interest thereon to the time of sale, the charges of the above-mentioned notices and advertisement and all other costs and charges accrued thereon. Such notice of sale of tax liens shall be published once in each week successively for three months in the City Record, and the advertisement shall contain, appended to the notice, a statement of the property the tax liens on which are to be sold; or the statement, instead of being published in the City Record may, at the option of the chamberlain, be printed in a pamphlet in which case copies of the pamphlet shall be deposited in the office of the collector and shall be delivered to any person applying therefor. The published notice of sale shall state that such statement is published in the City Record or in pamphlet, and if in pamphlet that copies of the pamphlet are deposited in the office of the collector and will be delivered to any person applying for the same. No other notice to pay or of sale of tax liens shall be required.

§ 376. Conduct of sale. If, notwithstanding such notice, the owner or owners fail to make such payment the collector, under the direction of the chamberlain, shall cause the tax lien to be sold at public auction in accordance with said advertisement and such sale shall be made on the day and at the place mentioned in the advertisement and shall be continued from time to time if necessary until all the tax liens so advertised be sold or, with the approval of the chamberlain, where question is raised as to their validity or enforceability, withdraw from the sale.

§ 377. Cancellation of leases or certificates or transfers of tax liens held by city. The collector of assessments and arrears may, with the written approval of the chamberlain, cancel any certificate or lease or transfer of tax lien for unpaid taxes, assessments or water rents held by the city or to which the city has acquired the right, and upon such cancellation the lien of such tax, assessment or water rents shall be and remain the same as if no sale for such unpaid tax, assessment or water rents had been made.

§ 378. Suspension or postponement of sale. The chamberlain may suspend or postpone any sale or sales of tax liens which shall have been advertised for sale to any time not exceeding fifteen months from the day specified in any such advertisement.

All sales which shall have been so postponed or suspended may be made without further advertisement, other than a general notice of such postponement to be published in the City Record.

§ 379. Deposit by purchaser; bids by city; forfeiture of deposit; resales. The collector of assessments and arrears or a deputy shall conduct the sales hereinbefore provided to be made and no auctioneer other than the collector or a deputy shall be employed to make such sales and no auctioneer's fees shall be charged thereon. The chamberlain shall require from each purchaser of a tax lien at the time of such sale a deposit on account of ten per centum of the amount of the tax lien purchased by him, and not later than thirty days from the date of sale the balance shall be paid to the collector at his office unless the time be extended for a reasonable time by the chamberlain for examination of claims for invalidity or error. If no bid be received for a tax lien offered for sale, the collector for and in behalf of the city may bid in such tax lien and upon such bid no deposit or payment in cash shall be required from the city. When the city shall have bid in a tax lien a transfer of the same to the city shall be executed by the collector in the form and manner prescribed for other transfers of tax liens, and the city shall have the same rights in, to and under such transfer of tax lien as if the same had been purchased by a natural person, including the right to assign and transfer the same. The collector, with the approval of the chamberlain, may assign any such transfer of tax lien which has not been redeemed to any person who shall, at any time before the commencement of foreclosure proceedings by the city, offer to take the same upon payment to the collector for the city of the purchase amount with interest thereon at the rate of twelve per centum per annum from the date of sale to the date of assignment. The person receiving the assignment shall be entitled to receive the amount for which the tax lien was sold to the city with interest from the date of sale at the rate of twelve per centum per annum, in the same manner as if the person had been a purchaser of the transfer of tax lien at the sale. Transfers of tax lien shall be made and delivered to the purchaser without charge upon payment of the amount therein stated to be due. If a purchaser do not complete his purchase in accordance with the terms thereof, the amount deposited by him at the time of the sale shall be forfeited to the city and the entire tax lien upon the real property affected by such purchase shall be sold again. Such resale shall be held at such time as the chamberlain

direct and shall be advertised in the City Record in such manner and for such time, not less than two weeks, as the chamberlain direct. All deposits forfeited shall be paid into the general fund for the reduction of taxation.

§ 380. Transfers of tax liens. A transfer of tax lien shall operate to transfer and assign the tax lien, including penalties and interest, charges of advertisement and notice and all other costs and charges so advertised for sale, free of all taxes, assessments and water rents which became a lien up to the day named in the advertisement of sale as stated therein and to create a lien upon the property affected thereby for the interest to which the purchaser may be entitled under his bid, but subject to the lien for and right of the city to collect and receive all taxes, assessments and water rents with penalties, interest and charges which became a lien or which accrued on and after the day named in the advertisement of such sale as stated therein. A transfer of tax lien shall contain a transfer and assignment by the city of the tax lien sold to the purchaser, the date of the sale, the name and post-office address by street and number, if any, of the purchaser, the aggregate amount of the tax lien so transferred, the items of taxes, assessments, water rents, penalties, interest and charges composing the lien, the annual rate of interest which the purchaser has bid and will be entitled to receive, the date when the amount of the tax lien will be due and a description of the real property affected by the tax lien, which description shall include the name of the borough in which the real property is situated and shall refer for certainty to the designation of the property on the tax map by its lot number and the number of the block, ward or section in which it is contained, if any, or, if there be none, by such other description as the collector may deem sufficient to identify the property. Each transfer of tax lien and assignment of transfer of tax lien shall be subscribed by or in behalf of the collector of assessments and arrears making the sale or a successor and shall be acknowledged by the officer subscribing the same in the manner in which a deed is required to be acknowledged to be recorded.

§ 381. Record of transfers of tax liens. The collector of assessments and arrears shall keep in his office a public record of sales of tax liens and a copy of each transfer of tax lien issued by him. An assignment of transfer of tax lien duly acknowledged and containing the name and post-office address by street and number, if any, of the assignee shall be filed and recorded in the office of the collector of assessments and arrears or a memoran-

dum thereof may be made by him upon the records of his office. No assignment of a transfer of tax lien shall become effective until the assignment be filed with the collector of assessments and arrears and a memorandum or entry thereof made on the sales record. Such assignments shall have priority according to the date of filing and record. A transfer of tax lien or an assignment thereof duly acknowledged shall be deemed a conveyance under the real property law and may be recorded in the office of the recording officer of the county in which the real property which it affects is situated; but the absence of such record shall not affect the validity or enforceability of the lien or transfer of tax lien. Transfers of tax lien and all assignments thereof shall be recorded by recording officers in the same manner as mortgages and assignments thereof, but without payment of a recording tax. The record in the office of the collector of assessments and arrears of sales of tax liens, of a transfer of tax lien, of a copy of a transfer of tax lien and of an assignment of a transfer of tax lien and a record in the office of a recording officer of a transfer of tax lien, copy of a transfer of tax lien and of an assignment of tax lien shall each be evidence in any court without further proof. A transcript of a record enumerated in this section duly certified shall be evidence in any court with like effect as the original. Neither the tax lien nor the rights transferred or created by a transfer of tax lien shall be impaired by failure of a recording officer to record a transfer of tax lien made by the city through the collector of assessments and arrears. Unless a contrary intent appear, a tax lien shall be presumed to be satisfied and discharged whenever it appear from recorded instruments that the tax lien has been transferred or assigned to the owner of the property affected, notwithstanding other intervening estates or liens. A satisfaction executed and acknowledged by the collector, reciting the surrender to him of the transfer of tax lien, shall suffice to discharge of record such transfer of tax lien in any office in which it may have been recorded.

§ 382. Rights of purchaser of tax lien. The aggregate amount of each tax lien transferred shall be due three years from the date of sale. Until such aggregate amount be fully paid and discharged, the holder of the transfer of tax lien shall be entitled to receive interest on such aggregate amount from the day of sale, semi-annually on the first day of January and July, at the rate which the purchaser shall have bid. At the option of the holder of a transfer of tax lien the aggregate amount thereof shall become

due and payable upon default in the payment of interest for thirty days, except that there shall be no default for failure to pay interest until seven months from the date of sale or upon default for six months after the delivery of the transfer of tax lien in the payment of any taxes, assessments or water rents which became a lien on or after the day of the date mentioned in the advertisement of the sale as stated therein of the tax lien transferred by such transfer of tax lien, except that there shall be no default for failure to pay such taxes, assessments or water rents until six months after the same shall have become liens. If the holder of a transfer of tax lien cannot be found at his address filed and recorded with the collector of assessments and arrears or decline to receive interest within twenty days after the same became due, such interest may be paid to the collector of assessments and arrears within thirty days after it became due and shall be received by him for the benefit of the holder of the tax lien. The collector of assessments and arrears shall give notice of such payment by mail to the tax lien holder of record. Any person having a legal or beneficial interest in property affected by a transfer of tax lien may satisfy the same before maturity upon giving thirty days' notice in writing to the holder thereof as shown by the records of the collector of the day on which payment will be made and upon payment of the principal with interest at the rate bid to a time three months after the day so fixed for payment, but if notice of intention to make payment be given as herein provided and such payment be not made then the whole amount of a tax lien concerning which such notice shall have been given shall become due and payable at the option of the holder; or any such person may, before maturity of the transfer, pay to the collector of assessments and arrears such principal with interest at the rate bid up to a day six months after such payment. Only service upon the collector of notice duly sworn to by the holder of the lien or his attorney stating that foreclosure proceedings have actually been commenced with the date thereof shall operate to prevent the collector from accepting such payment. If such payment be made to the collector of assessments and arrears he shall receive the same for the benefit of the holder of the tax lien thus discharged and shall give notice thereof to the purchaser or the personal representative or assignee of the purchaser by mail addressed to such address as may have been furnished him. Upon receiving surrender of such transfer of tax lien the collector of assessments and arrears shall pay the amount thus deposited to the person who,

according to the records in his office, appears to be entitled thereto or to his personal representatives.

§ 383. Discharge of tax lien. A tax lien which has been transferred must be discharged upon the record thereof by the collector of assessments and arrears and when payment is made to him of the principal and interest as provided in the last preceding section, and also when the transfer of tax lien is surrendered to him for cancellation and there is presented to him a certificate executed by the purchaser or his personal representative or assignee of record, acknowledged so as to be entitled to be recorded in the county in which the real property affected by such tax lien is situated, certifying that the tax lien has been paid or has been otherwise satisfied and discharged. The transfer of tax lien thus surrendered and such certificate of discharge must be filed by the collector of assessments and arrears and he must note upon the margin of the record of such sale upon such transfer of tax lien and upon the copy of the transfer of tax lien kept in his office a minute of such discharge and the date of filing thereof. If the transfer of tax lien shall have been lost or destroyed or mutilated, if payment be made to the collector of assessments and arrears or if a certificate of discharge be filed as hereinafter provided, application for an order dispensing with the surrender of the transfer of tax lien may be made in the same manner as is provided in the real property law for recording the discharge of mortgages in counties embraced in cities of the first class the provisions of which, so far as may be, are hereby made applicable to discharge of tax liens. The collector of assessments and arrears shall upon demand issue his certificate showing discharge of a tax lien which shall have been fully discharged and such certificate may be filed in any office where the transfer of tax lien is recorded, and any recording officer with whom such certificate is filed shall, without requiring the surrender of the transfer of tax lien, record the same and the collector shall note upon the margin of the record of such transfer of tax lien in his office a statement that the same has been discharged with a reference to the record of such certificate in his office.

§ 384. Exemption from taxation of tax liens and transfers. Tax liens and transfers of tax liens shall be exempt from taxation for all purposes, except from taxes imposed upon taxable transfers.

§ 385. Foreclosure of tax lien. If the amount of a tax lien which shall have been transferred be not paid when due, either by expiration of time or the exercise by the holder of his option upon



default, the holder may maintain an action in the supreme court to foreclose the tax lien. In an action to foreclose a tax lien any person shall be a proper party who the plaintiff alleges has or may have or that he has reason to believe has or may have an interest in or claim upon the real property affected by the tax lien, except that the city shall not be a party to any such action unless prior to the institution thereof a notice shall have been given by the holder of the lien to the chamberlain setting forth the interest or claim of the city which the holder has reason to believe the city has or may have to or in the property which is sought to be foreclosed and unless it shall appear by and as an allegation of the complaint that at least thirty days have elapsed since such notice was given. If the city or state be made a party defendant the reasons therefor shall be stated in the complaint. Where the city is made a party to an action to foreclose a tax lien the summons served upon the city shall be accompanied by the complaint. Except as otherwise provided in this act, an action to foreclose a tax lien shall be regulated by the provisions of the civil code and by all other provisions of law and rules of practice applicable to actions to foreclose mortgages on real property, including the provisions as to costs and disbursements and allowances. The people of the state of New York may be made party to an action to foreclose a lien in the same manner as a natural person. Where the people of the state of New York or the city is made a party defendant, the complaint shall set forth, in addition to the other matters required to be set forth by law, detailed facts showing the particular nature of the interest in or the lien on the said real property of the people of the state of New York or the city and detailed facts showing the particular nature of the interest in or the lien on said real property which the plaintiff has reason to believe that the people of the state of New York or the city has or may have in the real property, and the reason for making the people of the state of New York or the city a party defendant. Upon failure to state such facts the complaint shall be dismissed as to the people of the state of New York or the city.

§ 386. Pleading transfer of tax lien. Whenever a cause of action, defense or counterclaim is for the foreclosure of a tax lien or is in any manner founded upon a tax lien or a transfer of tax lien the production in evidence of an instrument executed by the collector of assessments and arrears in the form herein prescribed for a transfer of tax lien shall be presumptive evidence that the lien purported to be transferred by such instru-

ment was a valid and enforceable lien and that it has been duly transferred or assigned to the purchaser or holder, and it shall not be necessary to plead or prove any act, proceeding, notice or action preceding the delivery of such transfer of tax lien nor to establish the validity of the tax lien transferred by such transfer of tax lien. If a party or person in interest in any such action or proceeding claim that a tax lien is irregular, unenforceable or invalid or that there is any defect therein or that a transfer or assignment of tax lien is irregular, unenforceable, invalid or defective, such invalidity, unenforceability, irregularity or defect must be pleaded or set forth in detail and must be established affirmatively by the party or person pleading or setting forth the same.

§ 387. Presumption of validity of tax lien. In every action for the foreclosure of a tax lien and in every action or proceeding in which a cause of action, defense or counterclaim is founded upon a tax lien or a transfer of tax lien such transfer of tax lien and the tax lien which it transfers shall be presumed to be regular and valid and effectual to transfer to the purchaser named therein a valid and enforceable tax lien. Unless in such action or proceeding such tax lien or transfer of tax lien be found to be invalid or unenforceable, it shall be adjudged to be enforceable and valid for the amount thereof and the interest to which the holder may be entitled.

§ 388. Judgment of foreclosure of tax lien. In an action to foreclose a tax lien the plaintiff, unless the defendant obtain judgment, shall be entitled to a judgment adjudging the validity and enforceability of the tax lien and of the transfer of tax lien to the extent to which such lien or transfer thereof shall be determined to be valid and enforceable and directing the sale of the real property affected thereby or such part thereof as shall be sufficient to discharge the tax lien or such items thereof as shall be adjudged valid and enforceable and the interest thereon and all other taxes, assessments and water rents which have become liens affecting the real property, together with the expenses of the sale and the costs of the action.

§ 389. Effect of judgment foreclosing tax lien. Every final judgment in an action to foreclose a tax lien shall be binding upon, and every conveyance upon a sale pursuant thereto shall transfer to and vest in the purchaser all the right, title, interest and estate in and claim upon the real property affected by such judgment of the plaintiff, each defendant upon whom the sum-

mons and complaint have been duly served, each person claiming from, through or under such a defendant by title accruing after the filing of notice of pendency of the action or after the entry of judgment and filing of the judgment-roll in the proper county clerk's office and each person not in being when the judgment is rendered who afterward may become entitled to a beneficial interest attaching to, or an estate or interest in such real property or any portion thereof, provided that the person presumptively entitled to such beneficial interest, estate or interest is a party to such action or bound by such judgment. So much of section four hundred and forty-five of the civil code as requires the court to allow a defendant to defend an action after final judgment shall not apply to an action to foreclose a tax lien. Delivery of the possession of real property affected by a judgment to foreclose a tax lien may be compelled in the manner prescribed in section sixteen hundred and seventy-five of the civil code.

§ 390. Disposition of surplus. Any surplus of the proceeds of the sale, after paying the expenses of the sale and all taxes, assessments and water rents which became a lien on and after the day mentioned in the advertisement of the sale as stated therein under which the transfer of the foreclosed tax lien was issued and after satisfying the amount of the tax lien or such items thereof as shall be adjudged valid and enforceable and interest and the costs of the action must be paid into court for the use of the person or persons entitled thereto. If any part of the surplus remain in court for the period of three months and no application therefor be pending the court must and, if an application therefor be pending, may, direct such surplus to be invested at interest for the benefit of the person or persons entitled thereto to be paid upon the direction of the court.

§ 391. Procedure if no bid for tax lien be received. If no bid be received for a tax lien on real property at a duly advertised sale and it appear to the chamberlain that the taxes, assessments, water rents, penalties, accrued interest and charges amount to so large a proportion of the value of the property that the security is insufficient to attract bidders, the chamberlain and the corporation counsel shall investigate the facts and may fix a lesser amount for which, in their judgment, a tax lien bearing twelve per centum interest can be sold. A certificate in writing signed by them shall be filed with the collector of assessments and arrears setting forth the amount so fixed by them together with a brief statement

of the reasons for such reduction which certificate shall state the total amount of the taxes, assessments, water rents, penalties and accrued interest, the assessed value of such parcel of real estate and the value of the land as the same appears on the last preceding tax-roll. Thereafter such reduced amount shall constitute the tax lien upon said real property for the items therein enumerated, unless the same be increased as hereinafter provided, which reduced amount shall bear interest at the rate of twelve per centum per annum from the date of such certificate until fully paid or until the tax lien thus fixed together with the lien of any other taxes, assessments, water rents and penalties and interest becoming liens thereafter be sold. The collector of assessments and arrears shall thereafter advertise the tax lien for such reduced amount for sale to the highest bidder in the manner provided for the advertisement for the sale of ordinary tax liens. Such tax lien shall bear interest at the rate of twelve per centum per annum and be sold to the person bidding the highest amount of money in excess of the reduced amount so fixed by the chamberlain and corporation counsel, provided, that if the bidding reach the original amount of the tax lien on the real property affected together with all interest and penalties thereon the sale shall proceed in the manner provided for the sale of a tax lien as if no reduction had been made. If such tax lien be sold for a sum greater than the reduced amount fixed as aforesaid with the interest and penalties thereon, then such greater amount shall be considered the tax lien upon the real property affected thereby. If no bid be received at such sale, the chamberlain and corporation counsel shall reconsider their determination and may file a new certificate in the manner hereinbefore provided and the collector of assessments and arrears shall proceed again as hereinbefore directed. Such procedure shall be repeated until a tax lien for such taxes, assessments, water rents and accrued interest be sold.

§ 392. Reimbursement for invalid, defective or ineffectual tax liens or transfers of tax liens. If a transfer of tax lien be vacated or be set aside or canceled by order of the court or upon the recommendation of the corporation counsel with the approval of the chamberlain, or if it be adjudged in any action that a transfer of tax lien is invalid, defective, ineffectual or not sufficient to transfer a tax lien to the purchaser thereof, or if in an action to foreclose a tax lien it be adjudged that the entire tax lien is void and not a valid lien on the premises which it purports to affect

and that the complaint be dismissed, the purchaser may surrender such transfer of tax lien together with a certified copy of such order, judgment or decree to the collector of assessments and arrears and thereupon shall be repaid by the city the amount paid for such transfer of tax lien with interest from the time of such payment at the rate set forth in the transfer of tax lien and the city shall pay the taxed costs and disbursements of any action or proceeding in which such adjudication is made or, if no adjudication shall have been made, the disbursements actually and necessarily incurred by the holder of the transfer of tax lien in the effort to enforce the lien which might have been taxed had he obtained judgment.

§ 393. Reimbursement when part of tax lien is invalid, defective or ineffectual. If the corporation counsel recommend and the chamberlain approve, or if in an action to foreclose a tax lien it be adjudged that one or more but not all of the items constituting the tax lien are void, defective or ineffectual and not a valid lien on the real property affected by such tax lien, or if in any action or proceeding it be adjudged by the court that a transfer of tax lien is invalid or defective as to one or more, though not as to all, of the items transferred, the holder of the transfer of tax lien by instrument in writing duly acknowledged shall retransfer to the city such void, defective or ineffectual items and shall be repaid by the city such portion of the amount paid for such transfer of tax lien as may be applicable to such items with interest from the time of such payment at the rate set forth in the transfer of tax lien, and the city shall pay the taxed costs and disbursements of any action or proceeding other than an action to foreclose the tax lien in which such adjudication is made. The provisions of this section shall not apply to a tax lien which has been reduced by the chamberlain and the corporation counsel where no bid is received as hereinbefore provided unless by such an adjudication or recommendation the amount of the tax lien which shall remain valid and enforceable be less than the sum bid for the same and the interest thereon at the rate to which the holder of the transfer of tax lien is entitled; and the amount repaid by the city shall not exceed the difference between the amount of the tax lien which shall remain valid and enforceable and the sum paid therefor with interest thereon at the rate to which the holder of the transfer of tax lien is entitled.

§ 394. Transfers of tax liens may be questioned; examination by corporation counsel. Any person, including the city, an owner

of the property, the holder of transfer of tax lien or other person interested in or holding a lien upon any real property affected by an unpaid tax lien or transfer of tax lien may file a written notice with the collector of assessments and arrears claiming that a transfer of tax lien is invalid or defective or that a tax lien which has been transferred pursuant to this title or which is advertised to be transferred is invalid, defective, void or ineffectual or should be vacated or set aside. The collector of assessments and arrears shall transmit all such notices to the corporation counsel who shall examine into the facts and proceedings resulting in the tax lien or transfer of tax lien mentioned in such notice; before a determination is had the corporation counsel shall, unless the same be waived, serve a copy of such notice upon the holder, if any, of the transfer of tax lien thus questioned or which transfers the items thus questioned and shall give such holder an opportunity to be heard. The corporation counsel shall certify in writing his opinion upon the matters and questions raised by such notice and if he conclude that a defense in an action to foreclose the tax lien would succeed in whole or in part or that the best interests of the city would be served by taking action with respect to the tax lien, he shall so certify and shall recommend what action be taken by the city concerning the same. If a tax lien have not been sold and the corporation counsel conclude that such defense would succeed as to one or more items, but not as to all, or that any relief should be granted in the interest of the city, he shall so certify and recommend what action be taken and, with the approval of the chamberlain, the tax lien may be reduced by the amount of such items and as so reduced be sold or such disposition made of the tax lien as may be so recommended and approved. If the corporation counsel conclude that such defense would succeed in whole or in part or that any relief should be granted in the interest of the city and recommend repayment by the city of the amount paid for a transfer of tax lien which would be applicable to any item, he shall state the reasons for such recommendation and if it be approved by the chamberlain, the city shall require the surrender of the transfer of tax lien or the retransfer to it of the item or items of tax lien which are found to be void, unenforceable, defective or questionable and shall make repayment therefor as hereinbefore provided. Neither the provisions of this section nor any act or proceeding thereunder shall impair or affect the rights or remedies of any person interested in, or holding any lien upon real property to question the validity of any tax, assessment, water rents or tax lien or any part or item of a tax lien.

§ 395. Foreclosed tax lien not to be included as "arrears." Any party to an action to foreclose a tax lien or any purchaser or any party in interest may give notice of such foreclosure to the collector of assessments and arrears and, after due notice, the items which constituted the tax lien thus foreclosed shall not be entered by the collector in any yearly tax-roll so long as the judgment of foreclosure of such lien remains in force.

§ 396. Corporation counsel to protect interests of city. No claim shall be made against the city for reimbursement of moneys paid for a transfer of tax lien by the holder thereof unless action to foreclose the tax lien upon which such claim is founded be commenced within five years from the time of the sale resulting in such transfer of tax lien. Nor shall any such claim be made unless within ten days after the commencement of an action or proceeding to vacate, set aside or cancel a transfer of tax lien or a tax lien or an item mentioned in a transfer of tax lien or unless within ten days after the service of any pleading or other paper in an action or proceeding in which any transfer of tax lien or item mentioned in a transfer of tax lien is brought into question, sought to be set aside, vacated or canceled, or which sets forth or pleads any defense to an action to foreclose a tax lien, a notice in writing be served upon the corporation counsel setting forth the question or objection raised to the best knowledge of the holder of the transfer of tax lien or his attorney-at-law and demanding that the city assume the prosecution or defense of the action or proceeding. All proceedings in such action or proceeding shall thereupon be stayed for thirty days or such shorter time as the corporation counsel stipulate in writing. The corporation counsel shall examine the question raised and, in order to protect the interests of the city, shall have the right to appear or to be substituted for the attorney of record of the holder of the transfer of tax lien or to appear as attorney of record for the holder of any such transfer of tax lien, to conduct or defend any such action or proceeding in the name of the holder of the transfer of tax lien and to bring any other action or proceeding for, in behalf of and in the name of the holder of such transfer of tax lien as he may deem advisable, to take appeals and to argue appeals taken by the adverse party as he may deem advisable, but he shall not be required to continue as attorney after final determination of the question raised. The corporation counsel shall protect the interest of the city in all matters, actions and proceedings relating to tax liens and transfers of tax

liens, intervene in behalf of the city or of the holder of a transfer of tax lien in, or make the city a party to any action in which he believes it to be to the interest of the city so to do by reason of any matter arising under or relating to a tax lien or transfer of tax lien or advertisement of sale of tax liens. In any action or proceeding in which the corporation counsel pursuant to this section shall be substituted or shall appear it shall be without expense to the holder of the transfer of tax lien, and all costs during the period of such defense or appearance recovered in behalf of such holder of a transfer of tax lien in any action or proceeding conducted or defended by the corporation counsel or in which he shall appear after such notice shall belong to the city and shall be collected, applied and disposed of in the same manner as are other costs recovered by the city.

§ 397. Defective or invalid tax lien or transfer; new sale. If a transfer of tax lien be vacated or be set aside or canceled or if it be adjudged that a transfer of tax lien is invalid or defective or insufficient to transfer a tax lien to the purchaser thereof, or if in an action to foreclose a tax lien it be adjudged that it is not a valid or enforceable lien on the premises which it purports to affect because of some irregularity in the proceedings had, or otherwise, and if, in pursuance of any such adjudication the purchaser of the transfer of tax lien shall have surrendered such transfer of tax lien to the collector of assessments and arrears and shall have been repaid by the city the amount paid for such transfer of tax lien with interest and the taxed costs and disbursements of the action or proceeding in which such adjudication was made, the tax lien which was purported to be transferred and assigned in such transfer shall remain as a valid lien upon the property which it affects, except to such extent as it may have been adjudged irregular or invalid, and the collector of assessments and arrears may proceed to sell anew so much of the tax lien as is not invalid as if no prior sale purporting to transfer the tax lien had taken place.

§ 398. Lost transfer of tax lien; duplicate. When a transfer of tax lien given by the collector of assessments and arrears be lost, the chamberlain may receive evidence of such loss and, on satisfactory proof of the fact, may direct the collector of assessments and arrears to execute and deliver a duplicate to such person or persons as appear entitled thereto and may also require a bond of indemnity to the city.



§ 399. Apportionment of tax liens and transfers of tax liens. When it appear to the satisfaction of the collector of assessments and arrears that subsequent to the preparation of an advertisement of tax liens to be sold, the tax maps of the city have been altered in accordance with deeds executed and recorded prior to the date of sale so as to show divided ownership and a change in the dimensions of any real property as described in such advertisement, he may, with the approval of the chamberlain, before or after the sale upon the written request of the owner or owners of any of the divided portions thereof, if made before the filing with the collector of notice of the institution of foreclosure proceedings, duly apportion such liens or transfers. If such apportionment be made before sale and one or more of the apportioned amounts be paid, the lien for the remaining amount or amounts affecting the portion or portions of the property may be sold upon notice published in the City Record once a week for two weeks. If such apportionment be made after sale the owner or owners of any of the apportioned parts of the property may, at any time before the filing with the collector of notice of the institution of foreclosure proceedings, redeem such portions of the property from such sale as if the apportioned amounts had been sold separately and affected solely the several apportioned parcels to which they had been set off. A certificate of redemption, executed and acknowledged by the collector, shall operate as a release of the property so redeemed from the lien of the transfer of tax lien. The holder of the transfer of tax lien so apportioned shall have the same rights and remedies as to the part of the apportioned lien remaining unpaid as he would have had if the sale had related solely to such portion of the original lien; or he may make application for surrender of the lien to the city and refund of the amount of the apportioned lien with interest at the rate bid, and upon recommendation of the corporation counsel and the approval of the chamberlain such application may be granted and the apportioned lien unpaid be thereafter sold upon new advertisement.

## CHAPTER X.

### TAX DEPARTMENT.

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**Section 410. Tax board; how constituted; office in each borough.** The head of the department shall be the tax board. The board shall consist of seven tax commissioners, one of whom shall be designated in his appointment as president and one of whom shall be an attorney and counselor-at-law of not less than five years' standing. Not more than five commissioners shall be members of the same political party. The department shall maintain an office in each borough of the city.

§ 411. Subordinates; real and personal property defined. The board shall appoint a secretary of the department, an assistant to each tax commissioner, and may appoint tax assessors. Each tax assessor shall, under the direction of the board, between the first

day of April and the succeeding first day of October in each year appraise and enter in the assessment-roll for the purpose of assessment all the property in the district assigned to him by the board and shall certify to the board under oath that he has examined each separately assessed parcel of real property and stated both its full value including every right, title, interest and estate therein and the value appraised as if it were wholly unimproved in accordance with his best judgment and shall furnish the board all other information relative to real or personal property in the city as the board may require. The terms real property and personal property as used in this chapter mean real property and personal property as defined by the tax law. The title deputy tax commissioner is changed to tax assessor. Each tax commissioner and assistant may administer oaths.

§ 412. Duties of department. The department shall:

1. Assess all taxable property at its full value, except as otherwise provided by law;
2. Make assessment-rolls for each year and preserve the same;
3. Make and complete before the first day of October in each year, but subject to correction and addition, the entry of all assessments for the succeeding year, except assessments of special franchises and of shares of stock of banks and banking associations;
4. Make and complete before the first day of December in each year the entry of assessments for the succeeding year of shares of stock of banks and banking associations, subject to correction and addition;
5. Enter in February in each year upon the assessment-rolls assessments of special franchises for that year, a statement of which shall have been filed with the department by the state board of tax commissioners.

§ 413. Right of entry. The department may by its officers and employees and others acting in its behalf enter upon real property and into buildings and structures at all reasonable times to ascertain the value of the property.

§ 414. Taxable status to be fixed as of October first. The taxable status of all persons and property assessable for taxation in the city shall be fixed for each year as of the first day of October of the year prior to the year of levy; but this provision shall not affect the taxable status of a person whose taxable status shall have been fixed in another tax district of the state on the next preceding first day of July.

§ 415. Tax maps. The department shall maintain maps showing each separately assessed parcel of real property. Each separately assessed parcel shall be indicated either by a parcel number or by an identification number. Parcel numbers shall designate each parcel by the use of three or more numbers of which one shall be a section or ward number, another a block, district or plot number and another a lot number. The parcel numbering upon the tax maps shall be in such sequence as the department determine.

Each separately assessed parcel indicated by an identification number shall be shown by a separate map, or by a description or by a map and description. A separate identification number shall be entered upon the tax maps in such manner as clearly to indicate each separately assessed parcel of real property not indicated by parcel numbering. Real property indicated by a single identification number shall be deemed to be a separately assessed parcel.

The department may maintain as tax maps the maps established or maintained by law so far as the same apply. The tax maps may be altered by the department, except as otherwise provided by law.

§ 416. Tax surveyor. The department shall appoint a surveyor from the city surveyors, who shall make necessary surveys and corrections of maps and new maps required for more accurate assessment.

§ 417. Maps showing unit of value of land. During the month of March the department shall furnish to the board of City Record for publication maps of the city showing the unit values of land upon which the assessed valuation of real property was based in the assessments for the year. Such maps shall be public records. The scale of such maps and the manner of exhibiting the unit values shall be determined by the tax board. Such maps shall be published and sold as supplements to the City Record, unless the tax department otherwise provide for their publication, distribution and sale.

§ 418. Assessment of real property. The assessment of real property shall be made by entering upon the assessment-roll

1. A description of the property reasonably sufficient for its identification;
2. The name of the owner, if known;
3. A statement of its assessed value.

There shall be added to the assessment of real property by parcel numbering or by identification number a statement, showing the value of the land appraised as if unimproved. An entry by parcel numbering or an entry of an identification number of real property thereby indicated or described upon the tax maps shall be deemed to incorporate into the assessment-roll the entire corresponding indication of location and description shown upon the tax maps by the reference. No assessment of a separately assessed parcel of real property shall be deemed to be erroneous, excessive or illegal because of any division of right to or title, interest or estate in or ownership of the property assessed.

§ 419. Assessments of real property, how entered. Assessments of real property may be entered upon the assessment-roll in the numerical order of parcel numbering in each borough and an omission of the name of the owner in the assessment of property so entered or an error in the statement of his name shall not affect the validity of the assessment. Assessments of real property, if not so entered, may be entered upon the assessment-roll under the names of the owners of the real property arranged alphabetically and no error in the name shall render such assessment invalid, provided that the real property be sufficiently described to reasonably identify and indicate to a person familiar with the same the particular property which it was intended to assess. The department may enter the assessment of any real property either by parcel numbering or by the name of the owner. The assessment-roll for real property may be divided into parts for the purpose of separating the assessments entered by parcel numbering from the assessments entered by name and also for the purpose of separating the assessments of real property situated in different boroughs. Each part may consist of one or more books as the department determine.

§ 420. Reports of banks and banking associations; assessment of bank shares. The reports or statements under oath required by the tax law to be furnished to the department by banks and banking associations in the city for purposes of assessing for each year the shares of stock therein of their shareholders shall be furnished prior to the first day of November of the preceding year and shall show their condition respectively on the first day of October in the preceding year. Assessments for taxation of shares of stock of banks or banking associations taxable in the city shall for each year be made as of the first day of October of the preceding year and be entered upon the assessment-roll of

assessment of bank shares of each year prior to the first day of December of the preceding year. No notice of such assessments or of completion or final completion or filing of the assessment-roll or of hearing, other than this act, shall be required. Applications to reduce or cancel such assessments may be made and hearings had thereon between the first day and the thirty-first day of December, but all such applications shall be in writing, under oath, in the manner and upon the grounds stated in the tax law. Assessments of bank shares may be reduced, canceled, increased or added at the times and upon notice as provided herein for other personal property assessments. The assessment-roll need not be verified or filed but shall remain in the office of the department. Each statement of assessment of bank shares and tax thereon at the rate of one per centum mailed or given to banks or banking associations by the department shall be mailed or given on or prior to the twenty-eighth day of March in each year, and every bank and banking association shall collect all such taxes due upon the shares of stock therein from the several owners of such shares and pay the same to the receiver of taxes on or before the first day of November in each year, under the penalties and provisions stated in the tax law. In case of neglect or refusal on the part of any bank or banking association to report as herein prescribed or to make other reports as may be required, such bank or banking association shall forfeit the sum of one hundred dollars for each failure and the additional sum of ten dollars for each day such failure continue and an action therefor may be prosecuted by the city; and an action may also be prosecuted by the city to recover from any bank or banking association for failure to pay such taxes on or before November first as herein provided the penalty stated in the tax law of the gross amount of the taxes due from all the owners of the shares of stock and the additional amount of one hundred dollars for every day of delay in the payment of said taxes. Provisions of the tax law respecting the assessment and taxation of bank shares not in conflict with this act shall apply to assessment and taxation of shares of stock of banks and banking associations.

§ 421. Assessment-roll of personal property. An assessment of personal property shall be made by entering upon the assessment-roll (1) the name of the owner; (2) the amount of the assessment. Names of owners shall be arranged alphabetically. Only a substantial error in the name of the owner shall render an assessment invalid. The assessment-roll of personal prop-

erty may be divided into parts for the purpose of separating the assessments as between different classes of personal property and also for the purpose of separating the assessments of personal property as between residents of different boroughs. Each part may consist of one or more books as the department determine.

§ 422. Annual assessment-roll; rolls in each borough. The assessment-roll for each year shall consist of all books containing entries of assessments for the year made by the department. Each book of the assessment-roll shall be signed and verified by a tax assessor and, except as provided in this chapter, all matters respecting the form of the assessment-roll and the entry of assessments thereon shall be in the discretion of the department. All books of the assessment-roll for each borough shall be kept at the office of the department in the borough.

§ 423. Assessment-rolls to be open to inspection. The assessment-roll for the succeeding year shall be open to public inspection in each year as follows: The assessment-roll for real property shall be open between the first day of October and the fifteenth day of November, both inclusive; the assessment-roll for personal property, excepting assessments of bank shares, shall be open between the first day of October and the thirtieth day of November, both inclusive; the assessment-roll for assessments of bank shares shall be open between the first day and the thirty-first day of December, both inclusive; and all assessment-rolls shall also be open during the month of March following. They shall be open at such reasonable hours of each day except Sundays and public holidays and under such reasonable regulations as the department determine.

§ 424. Apportionment of assessments after first day of October; notice. When, prior to the first day of February following the opening of the assessment-rolls, any separately assessed parcel of real property shall have been divided, the department on or before that date may apportion the assessment thereof in such manner as it deem to be just and equitable and forthwith cause the assessment to be canceled and new assessments to be entered on the proper book or roll, and within five days thereafter cause written notice of the new assessments to be mailed to each owner of record of the real property so assessed at his last known residence or business address and an affidavit of the mailing of such notice to be filed in the main office. When such notice is mailed after the first day of November following the opening of the assessment-rolls such owners may apply for correction of such

assessments within twenty days after the mailing of the notice with the same force and effect as if such application were made on or before the fifteenth day of November in any year. The department may apportion an assessment as between separate and divided ownership in the property to which the assessment relates. Such apportionment may be made only upon the written application of a party in interest. An apportionment shall be evidenced by a certificate thereof signed by the secretary of the department. The department, within five days thereafter, shall cause written notice of such apportionment to be mailed to each owner of record of the real property so assessed at his last known residence or business address and an affidavit of the mailing of such notice to be filed in the main office. The officer having custody of the book of the tax-roll in which the tax upon an apportioned assessment is entered shall, upon receipt of a certificate of the apportionment, divide the tax and any interest or penalty thereon proportionately to the division of the assessment and note the apportionment on the book in connection with the entry of the tax. Each apportioned interest in the property taxed shall thereafter be subject only to the lien of the corresponding portion of the tax and interest.

§ 425. When department may reduce, cancel or increase assessments. The department may reduce or cancel or may increase any assessment except an assessment on special franchises at any time prior to the twentieth day of February in the year following the opening of the assessment-rolls. No assessment shall be increased nor shall any change be made in a name or description, except upon notice in writing to the party in interest given prior to the first day of February and an opportunity to be heard.

§ 426. Applications to reduce or cancel assessments. An application to reduce or cancel an assessment must be made by a person interested in the property assessed and be presented at the office of the department in which is kept the book containing the assessment complained of, and

(a) If the assessment be of real property

1. Be in writing and verified and state the applicant's address;
2. Be made separately for each parcel assessed, provided, however, that all parcels owned by the applicant and contiguous or separated only by streets may be included in one application;
3. When on the ground of overvaluation, state the value of each separately assessed parcel;



4. When on the ground of inequality, state the facts claimed to constitute the inequality;

5. When on the ground of illegality, state the facts claimed to render the assessment illegal;

(b) If the assessment be of a corporation for personal property the application must

1. Be in writing and verified and state the applicant's address;

2. State all matters relied on to secure a reduction or cancellation;

3. When on the ground of overvaluation, state the value of the property;

4. When on the ground of illegality, state the facts claimed to render the assessment illegal;

(c) If the assessment be of a natural person for personal property, other than bank shares, the applicant must personally appear and be examined on oath, if he be within the state and not prevented by illness from attending;

(d) Such applications must be made in the year preceding that for which the assessment is made between the first day of October and the fifteenth day of November following, both inclusive, as to real estate and between the first day of October and the thirtieth day of November following, both inclusive, as to personal property other than bank shares, and as to bank share assessments between the first day and the thirty-first day of December or within ten days after notice of an alteration of the assessment or of an added assessment;

(e) The department may prescribe general forms of applications and require information in addition to the matters herein stated.

§ 427. Examination of applicants under oath. The department shall examine on oath each natural person who shall make application for correction of an assessment of personal property other than bank shares. The tax board or any person designated by it may take proof and testimony as to all matters relating to the correction, reduction or cancellation of assessments. The department may examine any other applicant at any time prior to the eighteenth day of February in the year following the opening of the assessment-rolls, upon at least five days' notice given in writing delivered at the address stated in the application. A notice thus given shall be conclusively deemed to have been received by the applicant at the time of delivery. If an applicant willfully neglect or refuse to attend or to be sworn or to answer

any material question, he shall not be entitled to correction of assessment.

§ 428. When assessments may be added to the assessment-roll. The department may, prior to the twentieth day of February, add any assessment to the assessment-roll for the year, provided notice thereof be given by mail to the party in interest prior to the first day of February in such year and an opportunity be given to be heard after such notice. The yearly assessments of special franchises and of shares of stock of banks and banking associations entered in pursuance of law upon the assessment-roll after the first day of October of the preceding year shall not be deemed added assessments.

§ 429. Certification of assessment-rolls to board of aldermen; rate of taxation. The department shall before the first day of March send to the board of aldermen a certified statement of the aggregate amount of all assessed valuations, as corrected, of property on the books of the assessment-roll for such year, except the assessed valuations of shares of stock of banks and banking associations also, with the same exception, the aggregate amount of the assessed valuations of property on the books of the assessment-roll of each borough; and the department shall before the twenty-first day of February in each year send to the comptroller a certified statement of the amount of taxes which will be levied upon stocks of banks and banking associations for said year. The comptroller shall, before the first day of March, send to the board of aldermen a certified statement of the amount necessary to be raised by taxation to meet the requirements of the budget in the city and each county and borough. The board of aldermen shall meet at noon on the first day of March, or if said day be a Sunday or a legal holiday, on the next succeeding day and determine, except as to bank share assessments, the rate of taxation for all purposes in each borough for the year and certify the rates so determined to the tax department within three days thereafter. In determining such rates the board of aldermen shall fix each rate in cents and hundredths of a cent upon each dollar of assessed valuation.

§ 430. Tax-roll and tax levy. The department shall, on or before the twenty-eighth day of March in each year, prepare a tax-roll from the assessment-roll as corrected, divided, as the assessment-roll is divided and containing entries with respect to assessments required by this chapter to be entered in the assessment-roll, with additional columns in the books of real property

assessments for "water rents" and "arrears" but, as to assessments of real property, omitting the columns showing the value of the property unimproved. It shall compute the amount of tax upon each assessment upon the tax-roll at the rates certified by the board of aldermen, except upon assessments of shares of stocks of banks and banking associations and upon such assessments at one per centum and enter the proper tax upon the tax-roll opposite each assessment. In entering taxes fractions of a cent may be disregarded. After the completion of the tax-roll the city clerk shall procure the proper warrants signed only by the president of the board of aldermen and countersigned by the city clerk authorizing and requiring the chamberlain to collect the several sums therein mentioned according to law. Each book of the tax-roll shall be authenticated by a statement of the year for which it is made and by the written signature of at least one of the commissioners and be forthwith delivered to the receiver of taxes; and with the books of bank share tax shall also be delivered to the receiver certified copies of the statements of assessment of bank shares and tax mailed or given to the respective banks and banking associations. Such warrant, authentication and delivery of the tax-roll shall be the warrant for the collection of the taxes. The department shall simultaneously with such delivery notify the comptroller of the amount of taxes that he may cause the proper sum to be charged to the chamberlain for collection.

§ 431. Taxes and water rents; payments of and liens for. All taxes upon personal property, except upon bank shares, and one-half of all taxes upon real property, in the year for which they are levied, and unpaid water rents entered upon the tax-roll shall be due and payable to the receiver of taxes on the first day of May, and the taxes upon bank shares and the remaining and final one-half of taxes on real property shall be due and payable to the receiver on the first day of November. All such taxes and water rents shall be and become liens on the real property affected thereby on the respective days when they become due and payable as hereinbefore provided and shall remain such liens until paid and be preferred in payment to all other charges. The second half of the tax on real property due on the first day of November may be paid on the first day of May or at any time thereafter, provided the first half shall have been paid or be paid at the same time. On such payments of the second half of said tax as may be made prior to the first day of November a discount shall

be allowed at the rate of four per centum per annum from the date of payment to the first day of November. If any tax on personal property other than bank shares or any water rent or the first one-half of any tax on real property remain unpaid on the first day of June after the date when it shall have become due and payable to him, the receiver of taxes shall charge, receive and collect interest upon the amount of such unpaid tax or water rent at the rate of seven per centum per annum, to be calculated from the day it became so due and payable to the date of payment. If any tax on bank shares or the final half of any tax on real property remain unpaid on the first day of December after it shall have become due and payable to him, the receiver of taxes shall charge, receive and collect interest upon the amount of such unpaid tax at the rate of seven per centum per annum, to be calculated from the day on which it became due and payable to the date of payment. All moneys paid to the receiver of taxes on account of interest due upon any tax or part thereof or upon any water rent shall be accounted for and paid over by him as items of his tax collections.

§ 432. Remission or reduction of taxes. The board by a majority vote may remit in whole or in part any tax (1) if it be upon real property where the tax or any half or part thereof has not been paid, provided the remission be made within one year from the first day of August of the year in which the tax shall have been levied; (2) on property other than real property where the tax has not been paid, provided (a) the remission be in correction of a clerical error made by the tax department or (b) that the person aggrieved satisfy the board that illness or absence from the city prevented application for reduction or cancellation of the assessment within the time allowed by this act and a case for such reduction or cancellation is established. A remission under this section shall be deemed to have been made when a certificate of remission shall have been signed by the secretary of the department. Upon receipt of any certificate of remission the officer having custody of the tax-roll upon which the remitted tax shall have been entered shall note such remission upon the roll and preserve the certificate. No decision of the board refusing in whole or in part to remit a tax on application under this section shall be reviewable.

§ 433. What shall be deemed public notice of assessments. This act shall be deemed public notice of the imposition of all assessments for purposes of taxation, except assessments added to the

assessment-roll in any year after the first day of October and of the times for making all applications for reduction or cancellation of assessments and of the imposition of all taxes and interest charges and of the times for payment of taxes and interest; and no other notice need be given either to the public or to any party interested in a tax or an assessment for taxation.

§ 434. Certiorari to review final determination of department. A certiorari to review or correct on the merits any assessment upon a completed assessment-roll other than assessments of special franchises shall be allowed by the supreme court or a justice thereof directed to the tax commissioners or in the case of assessments of special franchises directed to the state board of tax commissioners on the verified petition of the party aggrieved, but only on the grounds, which must be specified in the petition, that the assessment is illegal by reason of the particulars alleged or is erroneous by reason of overvaluation, or in case of real property that the same is erroneous by reason of inequality in that the assessment has been made at a higher proportionate valuation than the assessment of other real property on the assessment-roll of the borough in which the real property is located for the same year, specifying the instances in which such inequality exists and the extent thereof and stating that the petitioner is or will be injured thereby. Such certiorari and all proceedings thereunder shall be had and taken in the judicial district where the book of the assessment-roll is kept upon which is entered the assessment to be reviewed, including assessments on special franchises and assessments on bank shares, and may be begun only between the first day of March and the thirtieth day of June, both inclusive, in the year for which the assessment sought to be reviewed or corrected shall have been made. There shall be no reduction or cancellation of an assessment except on the ground that it is void for want of jurisdiction unless an application for correction shall have been made as herein provided. There shall be no reduction of an assessment upon the ground of overvaluation unless the value of the property assessed shall have been stated in the application for correction, nor shall there be a reduction on that ground below the amount of such statement of value. There shall be no reduction of an assessment of improved real property upon the ground of overvaluation, unless the actual value of the land as improved be less than its assessed value. There shall be no reduction of an assessment upon the ground of inequality unless both the value of the property assessed and the

ratio of assessment which the applicant claims to prevail shall have been stated in the application for correction, nor shall there be a reduction on that ground by applying a ratio less than the ratio claimed in the application. There shall be no reduction of an assessment of improved real property on the ground of inequality, except by applying the ratio of assessment found to the actual value of the land as improved. There shall be no reduction of an assessment upon the ground of illegality, except upon a ground claimed in the application for correction of the assessment or because the assessment was void for want of jurisdiction; nor shall there be any cancellation of an assessment on the ground of illegality when the assessment is illegal in part but in such cases there may be a reduction. The compensation of referees and necessary expenses and disbursements, including the services of experts in the proceedings to review assessments for taxation (excluding special franchise assessments) and upon any appeals therein which may be a charge against the city shall, when approved by a justice of the supreme court, be payable in the same manner as a judgment.

## CHAPTER XI.

### LAW DEPARTMENT.

#### Section 450. Corporation counsel.

- 451. Assistants to the corporation counsel.
- 452. Actions to be instituted by corporation counsel.
- 453. Claims, actions and judgments; settlement of.
- 454. Examination of claimants.
- 455. Recovery of penalties; special powers of assistants in charge.
- 456. Counsel to tenement-house department.
- 457. Preparation of legal instruments; examination of titles.
- 458. Reports in street opening proceedings.
- 459. Officers and employees forbidden to have other counsel.
- 460. Fees not to be paid by department.
- 461. Verification of pleadings.
- 462. Satisfaction and assignment of judgments.

Section 450. Corporation counsel. The head of the department shall be the corporation counsel. He shall be the attorney and

counsel of the city and each county and of all departments, boards, bodies, offices, officers and employees thereof, except as otherwise provided in this act or other statute. His communications and opinions to a department, board, body, office, officer or employee shall be privileged communications and shall not be used against the city in any action or proceeding.

§ 451. Assistants to the corporation counsel. The corporation counsel shall appoint a first assistant corporation counsel who shall, during the absence or disability of the corporation counsel, possess all his powers and perform all his duties. In the event of a vacancy in the office of corporation counsel, the first assistant shall act as corporation counsel until the vacancy be filled. When authorized by the corporation counsel each assistant corporation counsel shall possess every power and perform every duty of corporation counsel or so much of such powers and duties as the corporation counsel may delegate to him. Such authorization shall be in writing for a designated period not exceeding three months. Such written authority must be filed and remain on record in the department and may be revoked. Neither the corporation counsel nor an assistant shall appear as attorney or counsel in any litigation, except in the discharge of his official duties, nor accept an appointment as referee or receiver in any action or proceeding. The corporation counsel may appear or direct an assistant to appear in any action or proceeding, criminal or civil, brought against any officer or employee by reason of an act done or omitted while in the performance of his duty, if such appearance be requested by the head of the department, board, body, office or bureau to which the officer or employee is attached.

§ 452. Actions to be instituted by corporation counsel. The corporation counsel, except as otherwise provided in this act, may institute actions and proceedings to maintain, defend and establish the rights, interests, revenues, property, privileges, franchises or demands of the city and of a county or to collect money, debts, fines or penalties or to enforce laws and ordinances.

§ 453. Claims, actions and judgments; settlement of. The corporation counsel shall have exclusive jurisdiction of the investigation of all claims, actions and judgments for or against the city or a county on account of destruction of or injury to property or for personal injuries or for death. After commencement of an action thereon a claim upon an express or implied contract and all papers together with a statement of all facts relating thereto shall, upon the request of the corporation counsel, be transmitted to him by

the comptroller. Settlement of a claim, action, proceeding or judgment by the corporation counsel by confession of judgment, acceptance of offer of judgment or otherwise shall be subject to the written approval of the comptroller and if the amount be more than ten thousand dollars also to the written approval of the mayor.

§ 454. Examination of claimants. The corporation counsel may require any person presenting a claim against the city or any assignor of such claim, or any person giving notice of intention to sue, to be sworn and examined before him or before an assistant as to any facts relative thereto; and if the claim be based upon an alleged injury to the person, the corporation counsel may require the person injured to submit to a physical examination in respect of such injury by one or more physicians or surgeons to be designated by the corporation counsel, and if the person to be examined be a female she shall be entitled to examination by a female physician or surgeon.

§ 455. Recovery of penalties; special powers of assistants in charge. The corporation counsel may designate in writing one or more of his assistants to have charge of proceedings for the recovery of penalties. All costs, commissions, fines, penalties or moneys received by him and assistants corporation counsel from any source whatever shall be paid over monthly to the chamberlain and shall be accompanied by a sworn statement in respect thereof. Subject to the approval of the corporation counsel, an assistant having charge of proceedings for the recovery of penalties may settle, compromise, adjust or discontinue any action brought to recover a penalty.

§ 456. Counsel to tenement-house department. The corporation counsel shall assign an assistant to act as counsel to the tenement-house department.

§ 457. Preparation of legal instruments; examination of titles. Except as otherwise provided by law, the corporation counsel shall prepare or approve as to form all leases, deeds, contracts, bonds and other written legal instruments and papers of the city and of each county, and shall examine or cause to be examined and approve the title to all real property purchased by the city.

§ 458. Reports in street opening proceedings. The corporation counsel shall furnish to the board of estimate in each year at the time of making the departmental estimate for the ensuing year a list of all reports in street opening proceedings confirmed during



the preceding twelve months with a statement of the amount of awards and costs taxed in each proceeding.

§ 459. Officers and employees forbidden to have other counsel. No city officer or employee shall have or employ any attorney or counsel in any action or proceeding to which the city or a county or such officer or employee in his official capacity is a party; but in an action or proceeding in which the final judgment or order may affect the personal rights, property or liberty of such officer or employee, the court, upon notice to the corporation counsel, may permit such officer or employee to employ and be represented by attorney or counsel at his own expense.

§ 460. Fees not to be paid by department. A city or county officer or officer of a court exercising jurisdiction within the city shall not charge the department a fee for entering, filing, docketing, registering or recording any paper, record or document and shall, upon application, without fee, furnish the department with a certified copy, transcript or extract of any paper, document or record in his office.

§ 461. Verification of pleadings. The mayor, comptroller, corporation counsel or an assistant when authorized by the corporation counsel may on behalf of the city, a county, or city or county department, board, body or officer verify a pleading in an action or a petition in a special proceeding.

§ 462. Satisfaction and assignment of judgments. A satisfaction or an assignment of a judgment in favor of the city or a county may be executed by the corporation counsel or an assistant corporation counsel authorized by the corporation counsel, without regard to the time that has elapsed since the entry thereof.

## CHAPTER XII.

### ENGINEERING DEPARTMENT.

Section 470. City engineer.

471. Powers and duties.

472. Custodian of city map and drainage plan.

473. City engineer to mark boundaries.

474. Right of entry.

Section 470. City engineer. The head of the department shall be the city engineer who shall be a civil engineer of not less than ten years' experience.

§ 471. Powers and duties. The city engineer shall

1. Be the engineer of the board of estimate and perform such

duties as the board of estimate, the mayor or sinking fund commission may require of an engineer;

2. Make such investigations, plans, specifications, estimates and inspections relative to general improvements as may be required by the board of estimate;

3. Examine, test, analyze and certify all apparatus, appliances and materials used or to be used in the construction of a general improvement or which may be referred to him by the head of a department, board, body or office of the city or a county;

4. At the request of the head of a department, board, body or office of the city or a county, act as sole engineer in reference to any work or improvement under the control or charge of such department, board, body or office;

5. Approve the plans and specifications for general improvements;

6. When requested by the board of estimate, prepare and submit standard forms of contract for public work.

The certificate of the city engineer as to the result of an examination, test or analysis made by him shall be conclusive as to the city.

§ 472. Custodian of city map and drainage plan. The city engineer shall be the custodian of the city map and drainage plan and of the profiles adopted by the board of estimate. He shall perform such other duties in relation to the city map and drainage plan as are prescribed in this act or the board may require.

§ 473. City engineer to mark boundaries. The city engineer, when directed by the board of estimate, shall mark by suitable monuments any boundary line of the city or other boundary line determined by law.

§ 474. Right of entry. The city engineer and all persons acting under his authority may enter in the daytime into and upon any real property and waters which he deem necessary to be surveyed, used or converted for the laying out, surveying and monumenting of parks, streets, bridges, tunnels and approaches to bridges and tunnels or for marking any boundary line.

## CHAPTER XIII.

### DEPARTMENT OF EDUCATION.

Article 1. Board of education. (§§ 480-488.)

2. Local school boards. (§§ 500-503.)

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education and all property real and personal hereafter acquired for such purposes shall be under the care and control of the department.

§ 486. Powers of board. The board of education shall have power

1. To establish, conduct, consolidate and discontinue schools or classes;

2. Upon the written recommendation of the board of superintendents, to change grades and classes and adopt and modify courses of study;

3. To provide special day or evening classes in the English language for persons whose vocations prevent their attendance at other schools;

4. Upon the written recommendation of the board of superintendents, to establish the kinds and grades of licenses for directors, assistant directors, inspectors and members of the teaching staff; and, upon like recommendation, to prescribe the qualifications necessary to render an applicant eligible for examination by the board of examiners;

5. To maintain free lectures and courses of instruction;

6. Upon the written recommendation of the board of superintendents to approve and select text-books, apparatus and other supplies for use in the schools; provided, however, that no book of which a member of the board or of the teaching or supervising staff or an officer or employee is the author or in the publication or sale of which he is or may be interested shall be used in the public schools, except when authorized by the vote of at least twelve members of the board;

7. To construct, equip, maintain, alter, repair and manage school buildings;

8. To provide for and to equip, maintain and manage playgrounds, recreation centers and school farms;

9. To fix the salaries of all officers and employees, including members of the supervising and teaching staffs, subject to the approval of the board of estimate and the board of aldermen;

10. To appoint a supervisor of janitors and janitors, who may be called custodians, and to make rules and regulations for their guidance and discipline;

11. Upon the written recommendation of the board of superintendents, to appoint, promote and transfer members of the teaching staff;

12. To declare vacant any position the incumbent of which shall have been absent for more than ten days without leave and without satisfactory explanation;

13. To adopt by-laws, rules and regulations, not inconsistent with law, for the proper execution of all powers and duties and the transaction of all business of the department, the board, its members and committees and of the several local school boards; regulate and define the duties of officers and employees of the department and the members of the supervising and teaching staffs; regulate the manner of making disbursements from funds appropriated for school purposes; and to provide for the welfare of the schools and school system;

14. To dispose of personal property no longer required for use, and sell at prevailing market prices the products of the schools not utilized by the board of education;

15. After consultation with the city superintendent, to assign associate superintendents to duty.

§ 487. Administrative officers. The board shall appoint the following administrative officers: A secretary of the department and an auditor to hold office at the pleasure of the board; also a chief clerk, a superintendent of school buildings who shall be an architect of experience and a superintendent of school supplies, each of whom shall hold office for a term of six years but may be removed for cause and may be suspended with or without compensation by the board or its president pending the trial of charges. The secretary and the chief clerk may administer oaths as to matters pertaining to the schools and for such purpose shall possess the powers of commissioners of deeds, but shall not be entitled to any fees.

§ 488. By-laws, rules and regulations continued. The by-laws, rules and regulations now in force, not inconsistent with statute, shall continue until changed.

## ARTICLE 2.

### LOCAL SCHOOL BOARDS.

Section 500. Local school board districts.

501. Local school boards; members.

502. Organization of local boards; members serve without compensation.

503. Powers and duties of local boards.

Section 500. Local school board districts. The city shall be divided by the board within sixty days hereafter into forty-six local school board districts of which twenty-two shall be in the borough of Manhattan, fourteen in the borough of Brooklyn, four in the borough of Bronx, four in the borough of Queens and two in the borough of Richmond. The districts shall be compact in form and, as near as may be, of equal school attendance. Subject to such conditions, the board may every fifth year thereafter re-district each borough. Upon the division of the several boroughs into districts the board shall file maps of the same duly authenticated by its secretary in the office of the mayor, and a duplicate of the map of each borough in the office of the borough president.

§ 501. Local school boards; members. There shall be in each district a local school board consisting of six members as follows: A supervising officer of the school system assigned to such district by the board and five persons to be appointed by the borough president; when a borough shall have been divided into local school board districts the borough president shall, within thirty days thereafter, appoint five members of each local school board for terms of one, two, three, four and five years from the first day of January next preceding the date of their appointment as designated therein. The successor of a member shall be appointed for a full term of five years by the borough president. A vacancy shall be filled by appointment for the unexpired term by the borough president. Where boundaries of a local school board district shall be changed the board of education shall designate the new districts within which the local school boards appointed for districts affected thereby shall thereafter act. Members of local school boards appointed by a borough president may be removed by him in the manner provided for the removal of members of the board of education. The president of the board of education may designate a commissioner to attend meetings of a local school board. The commissioner so designated shall have the same rights and powers at such meetings as a member of the local board.

§ 502. Organization of local boards; members serve without compensation. All members of a local school board shall serve as such without compensation and, except the member of the supervising staff assigned thereto, each shall be a resident of the district in and for which he is appointed. A local school board shall meet not less than once in each month except in July and August.

§ 503. Powers and duties of local boards. The local school

boards shall, in their respective districts and subject to the provisions of this article and the by-laws, rules and regulations of the board of education

1. Inspect all the schools in the district at least once in every month except July and August;

2. Call the attention of the board of education without delay to every matter requiring official action;

3. Report promptly to the board of education whenever additional school accommodations are needed;

4. Report promptly to the board of education any dereliction of duty on the part of any officer or employee of the department, with the facts and circumstances;

5. Have power to grant leave of absence to teachers subject, however, to the approval of the board of superintendents;

6. Try and determine all matters relating to discipline, corporal punishment of pupils and other matters affecting the administration of the schools arising upon the complaint of pupils, parents or guardians against principals or teachers, and impose such penalties as may be prescribed by the by-laws of the board of education. For the purposes of this subdivision members of local school boards may take proof and testimony. The determination of a local board as to charges and punishment shall be reported immediately to the board of education which may reject, confirm or modify the determination of the local board. The decision of the board of education shall be final except as to matters in relation to which, under the education law, an appeal may be taken to the state commissioner of education;

7. Procure the enforcement of the law and the by-laws of the board of education relating to the sanitary condition of the schools and the health of the pupils;

8. Have power to transfer teachers from school to school within their respective districts, subject to the approval of the board of superintendents;

9. Report to the board of education and to such officer of the department as the by-laws of the department require all vacancies in the teaching force;

10. Adopt by-laws regulating the exercise of all powers and duties vested in it consistent with the by-laws of the board of education;

11. Keep a record of the proceedings of the meetings of the board which shall be open at all times to inspection by the board of education or a member thereof.

## ARTICLE 3.

## SUPERVISING AND TEACHING STAFFS.

**Section 510.** Appointment of members of supervising staff.

- 511. Board of superintendents, supervising staff; qualifications.
- 512. Directors of special branches; qualifications.
- 513. City superintendent; rights and duties.
- 514. Disability or absence of city superintendent; main office.
- 515. Powers and duties of board of superintendents.
- 516. District superintendents; inspectors; directors of special branches.
- 517. Appointments and promotions.
- 518. Nominations and appointments of members of teaching staff; resignations.
- 519. Teachers in the charities department and department of correction.
- 520. Board of examiners; examinations; licenses to teach.
- 521. Discipline.

**Section 510.** Appointment of members of supervising staff. The board of education shall appoint for terms of six years the following members of the supervising staff: (a) A city superintendent of schools; (b) associate superintendents of schools, district superintendents of schools, directors of special branches and assistant directors of special branches; (c) supervisor of lectures; (d) assistant supervisors of lectures; (e) a superintendent of libraries; and may appoint inspectors and assistant inspectors. Appointments by the board of education shall be by a majority vote of all members of the board. A vacancy in an office or position shall be filled by appointment for a full term.

§ 511. Board of superintendents, supervising staff; qualifications. There shall be eight associate superintendents who, with the city superintendent of schools as chairman shall constitute the board of superintendents. There shall be not less than twenty-six district superintendents.

No person shall be eligible to the office of city superintendent, associate superintendent or district superintendent who has not one of the following qualifications: (a) A degree or diploma of

graduation from a college or university recognized by the regents of the university of the state of New York, together with at least seven years of experience in teaching or supervision since graduation; (b) a principal's certificate obtained as a result of examination, together with at least ten years' experience in supervision or teaching. This section shall not prevent the appointment as city superintendent, associate or district superintendent of any such superintendent now in office.

§ 512. Directors of special branches; qualifications. No person shall be eligible for appointment as director of a special branch who is not a graduate of a college or university recognized by the regents of the state of New York and a graduate from a course of professional training of at least two years in the special branch that he is to supervise or teach and who has not been a teacher of the special branch for at least three years.

§ 513. City superintendent; rights and duties. The city superintendent shall have the right of visitation and inquiry in the schools under the control of the board of education. He shall submit to the board an annual report as to the condition of the schools and all matters relating to his office and plans and suggestions for the improvement of the schools and school system and for the advancement of public instruction. He shall enforce the compulsory education law and direct attendance officers in their duties. He shall assign his clerks to duty and may suspend them with or without pay for cause and report suspensions to the board. He shall report as often as the board direct upon any matter entrusted to his charge. He shall consult with the board of education as to the assignment to duty of associate superintendents, and shall assign to duty district superintendents and other members of the supervising staff in accordance with the by-laws of the board of education. He may call together members of the supervising and teaching staffs for consultation and instruction. He shall prescribe suitable registers, blanks, forms and regulations for the making of reports by the members of the supervising and teaching staffs. He shall, except in executive sessions, have a seat in the board of education and the right to speak on all matters before the board, but not the right to vote. The city superintendent shall report to the board each case of gross misconduct, insubordination, neglect of duty or inefficiency on the part of a member of the teaching or supervising staff. He may renew or



make permanent, in accordance with the provisions of this act, temporary licenses issued by the board of examiners to members of the teaching staff, directors and inspectors. He shall perform such other duties as the board prescribe.

§ 514. Disability or absence of city superintendent; main office. During the disability or absence of the city superintendent, one of the associate superintendents shall be designated by the board of education to act in his place. The main office of the city superintendent shall be in the borough of Manhattan in a building selected by the board.

§ 515. Powers and duties of the board of superintendents. The board of superintendents shall

1. Nominate to the board of education for appointment, transfer and promotion all directors and assistant directors of special branches, inspectors of special classes and school activities and all members of the teaching staff;

2. Recommend courses of study for adoption by the board of education and prepare syllabi of the topics in the various branches to be taught, which shall be minimum requirements in each subject;

3. Recommend to the board of education for adoption textbooks, apparatus and other scholastic supplies;

4. Recommend to the board of education the kinds and grades of licenses for directors, assistant directors, inspectors and members of the teaching staff and the qualifications necessary to render an applicant eligible for examination by the board of examiners;

5. Approve or disapprove the service of all directors, inspectors and members of the teaching staff;

6. Recommend to the board of education changes in the grades of schools and classes;

7. Meet as often and at such times as the board of education designate, but there shall be at least one meeting in each month of the year except July and August;

8. Perform such other duties as may be prescribed by the by-laws of the board of education.

§ 516. District superintendents; inspectors; directors of special branches. Subject to the by-laws of the board of education and as assigned by the city superintendent, district superintendents, inspectors, and directors of special branches shall examine pupils and instruct the members of the teaching staff and shall report to the city superintendent. Each district superintendent

shall also report to the local school board within a district and, through the city superintendent, to the board of education any case of gross misconduct, neglect of duty, insubordination or general inefficiency arising in such district on the part of any member of the teaching staff within his jurisdiction.

§ 517. Appointments and promotions. Appointments and promotions in the teaching staff and in the supervising staff shall be made according to merit and fitness to be ascertained, so far as practicable, by examination which, so far as practicable, shall be competitive. Except to the office or position of city, associate or district superintendent, member of the board of examiners, supervisor of lectures, principal of a high school, principal of or teacher in a training school for teachers or as otherwise provided in this act, no person shall be appointed to a position on the supervising staff or teaching staff or promoted to a position involving an increase of salary in either of such staffs whose name does not appear upon the appropriate competitive eligible list as determined by competitive examination and certified by the board of examiners and who does not hold the license required for the office or position. Promotions and appointments shall be made in the regular order of the standing of candidates on the appropriate eligible list as determined by competitive examination; provided, however, the board of superintendents may consider for nomination for appointment the three persons whose names are highest on the appropriate list.

§ 518. Nominations and appointments of members of teaching staff; resignations. All members of the teaching staff shall be appointed by the board of education on the nomination of the board of superintendents. Appointments shall be made, except in high schools or training schools for teachers, for the several local school board districts and when made the members of the teaching staff shall be assigned to duty in such schools and to such positions therein as the board of superintendents determine. Where practicable teachers shall be appointed for districts in the boroughs in which they reside. Members of the teaching staff may be promoted or transferred from one school to another school by the board of superintendents subject to the approval of the board of education; but a teacher shall not be transferred from a school in one county to a school in another county without his or her consent. For all purposes affecting the appointment, promotion or transfer of teachers in any school the

district superintendent assigned to the district in which the school is situated, the principal of such school and, in the case of transfer, the district superintendent and the principal of the school to which it is proposed to transfer a teacher shall have seats in the board of superintendents with votes on such propositions. In case of the consolidation of schools or the discontinuance of a school each member of the teaching staff in good standing deprived of employment shall be preferred for appointment in any school of the city. Resignations of members of the teaching staff shall be made to the board of superintendents.

§ 519. Teachers in the charities department and department of correction. Teachers in schools or classes maintained in the institutions controlled by the charities department or department of correction shall be appointed by the commissioner of the appropriate department upon the nomination of the city superintendent and shall be licensed by the board of examiners. The salaries of teachers in such institutions shall be not less than the lowest salary provided for a regular teacher in the elementary schools in accordance with the provisions of this act. The board of education through such representatives as it may designate shall maintain an effective visitation and inspection of such schools and classes.

§ 520. Board of examiners; examinations; licenses to teach. There shall be a board of examiners consisting of five members. The four present appointive members of the board of examiners shall continue as members of such board until the expiration of their respective terms. The members of the board of examiners shall be appointed by the board of education from eligible lists prepared by the municipal civil service commission after competitive examination in accordance with the rules of the commission; but an appointive member of the present board shall be eligible for reappointment without such examination. One member of the board of examiners shall be designated as chairman by the board of education. The board of examiners shall hold examinations at such times as the board of education direct and examine applicants for licenses and issue to those who pass the required tests such licenses as they are found entitled to receive. All licenses issued shall be temporary and issued in the name of the city superintendent. Such licenses may be renewed without examination from year to year for two successive years by the city superintendent provided the service of the holder is satisfactory. After the close of the third year of continuous service the city superintendent may make the license permanent. A per-

manent license shall not be issued to a person who is not a citizen of the United States. The board of education may employ temporarily assistants to the board of examiners. To be eligible for appointment as member of the board of examiners, an applicant must possess a degree or diploma of graduation from a college or university recognized by the regents of the university of the state of New York together with at least seven years' experience in teaching or supervision since graduation or a principal's certificate obtained as a result of examination together with at least ten years' experience in teaching. The board of education, on the recommendation of the board of superintendents, shall designate the kinds or grades of licenses to teach together with the academic and professional qualifications to be required for each kind or grade of license. The board of examiners shall prepare all necessary eligible lists, which shall be certified to the board of education and to the board of superintendents and be kept in the office of the board of superintendents and shall be open for inspection by members of the board of education, associate superintendents, district superintendents, principals and local school boards. The board of education may determine whether eligible lists be merged. No teacher shall be appointed or promoted to the grades of the last two years of the elementary schools whose name does not appear on an eligible list for such grades prepared as the result of a competitive examination hereafter held. No present holder of a teacher's license number one, teacher's license number two, graduating class license, promotion license or grade "A" license shall be debarred on account of age from entering such examination. The state commissioner of education may, for cause, revoke a permanent license.

§ 521. Discipline. A member of the board of education, a local school board or member thereof, the city superintendent, an associate superintendent or district superintendent may prefer charges to the board of education against a member of the teaching or supervising staff exercising powers in the schools under his or its charge for gross misconduct, neglect of duty, insubordination or general inefficiency. Pending trial, the board of education may suspend such member with or without pay and appoint a substitute. In accordance with by-laws of the board of education, a district superintendent may suspend a member of the teaching or supervising staff in a school under his jurisdiction and shall forthwith report such suspension to the city superintendent who shall immediately report it to the board of education. Pending action

by the board of education, the city superintendent may appoint a substitute. The board of education on receiving notice of such charges shall try and determine the same, either in the board or by a member or members, and shall fix the penalty or punishment, if any, to be imposed for the offense and such penalty or punishment shall consist of a reprimand, fine, suspension for a fixed time without pay or dismissal; provided, however, that a vote of ten members of the board shall be necessary to impose the penalty of dismissal. The report of a member or members holding such trial shall be subject to action by the board which may reject, confirm or modify the same and the decision of the board shall be final, except as to matters in relation to which, under the education law, an appeal may be taken to the state commissioner of education. If a member of the teaching or supervising staff be not dismissed he shall be restored to his position, with full pay for the period of suspension less any deductions therefrom in fines. In all trials authorized by this chapter the board or a member or members conducting the trial may take proof and testimony.

#### ARTICLE 4.

##### TEACHERS' RETIREMENT FUND.

Section 530. Composition of fund; its management.

531. Teachers' permanent retirement fund.

532. Board of retirement.

533. Retirement; annuities.

534. General provisions.

535. Appropriation for clerical expenses.

Section 530. Composition of fund; its management. The general care and management of the public school teachers' retirement fund created for the former city of New York by chapter two hundred and ninety-six of the laws of eighteen hundred and ninety-four and of the public school teachers' retirement fund created for the former city of Brooklyn by chapter six hundred and fifty-six of the laws of eighteen hundred and ninety-five is hereby continued in the board of education, and said funds together with the funds, revenue and income specified in this section shall constitute the public school teachers' retirement fund. The board of education shall establish rules and regulations for the administration of the fund, preserving all rights of the teachers of the

city and the former city of Brooklyn, and direct payments from the fund of annuities granted as provided in this act. The comptroller shall hold and invest the fund and by direction of the board of education pay out the same. He shall report in detail to the board in the month of January the condition of the fund and the receipts and disbursements on account of the same. The retirement fund shall consist of the following, with the interest and income thereof: (1) All salary or compensation of the teaching or supervising staff of the public day schools of the city or teachers of schools or classes maintained in institutions controlled by the charities department or of the department of correction forfeited or deducted pursuant to rules established by the board of education or by the commissioner of charities or the commissioner of correction for schools or classes maintained in such departments, certified monthly by the auditor of the board of education, the commissioner of charities and the commissioner of correction to the comptroller and paid into the fund; (2) all moneys received from donations, legacies, gifts, bequests or otherwise for or on account of the fund; (3) an amount to be appropriated annually equal to five per centum of all moneys received during the next preceding calendar year into the city treasury from excise taxes for the business of trafficking in liquors; (4) one per centum of the salaries of all members of the teaching and supervising staffs of the public day schools and teachers of schools or classes maintained in institutions controlled by the charities department or department of correction. The amount deducted from the salary of a teacher or principal shall not exceed thirty-five dollars in any one year and the amount deducted from the salary of a member of the supervising staff shall not exceed forty dollars in any one year. The board of education, the commissioner of charities and the commissioner of correction shall deduct on each pay-roll of the teaching and supervising staffs one per centum from the salary or compensation of each member for the period covered by the pay-roll and shall certify monthly to the comptroller the amounts so deducted and such amounts shall be paid into the fund. All pay-roll deductions from the salary of a person dismissed from the service for cause before becoming eligible for retirement shall be refunded to such person upon dismissal.

§ 531. Teachers' permanent retirement fund. The permanent teachers' retirement fund now established or existing shall be retained for the purpose for which it was established. The unexpended balances of the income of the teachers'

retirement fund for any year shall be added to such permanent fund. The comptroller shall invest the permanent fund and the income thereof may be used for the payment of annuities, but if necessary the board of education may use any portion of the permanent fund in excess of eight hundred thousand dollars in the same manner as income.

§ 532. Board of retirement. The president of the board of education, two members of the board to be appointed by the president, the city superintendent of schools and three members to be selected from the principals, assistants to principals and teachers of the public day schools shall constitute a board of retirement. The three last-named members shall be chosen as follows: On the second Thursday of May the principals, assistants to principals and teachers in each district shall meet at the call of the district superintendent, which call shall be issued at least one week before said meeting for a designated place within the district to select by ballot one of their number as district representative to serve for one year. At the close of the meeting the presiding officer shall transmit to the secretary of the board of education the name and address of the district representative chosen. The district representatives shall meet at four o'clock in the afternoon on the third Thursday of May at the hall of the board of education and choose by ballot one of their number to serve on the board of retirement for three years from the first day of the following June. Should a vacancy occur among the members of the board of retirement so chosen, the district representatives shall meet and choose by ballot one of their number to serve on the board of retirement for the unexpired term.

§ 533. Retirement; annuities. The board of education may

1. By a vote of at least eight of its members, on the recommendation of the board of retirement, retire any member of the teaching or supervising staff of the public day schools of the city or teacher of schools or classes maintained in institutions controlled by the charities department or department of correction who is mentally or physically incapacitated for the performance of duty and who has been engaged in the work of teaching or of school or college supervision or of examination of teachers for licenses or any two or more of said kinds of work for a period aggregating twenty years, fifteen of which shall have been in the public day schools in the city or in schools or classes maintained in institutions controlled by the charities department or the department of correction;

2. Retire, without recommendation, from active service any member of the teaching or supervising staff who shall have attained the age of sixty-five years and shall have been engaged in the work of teaching or school supervision for a period aggregating thirty years, at least fifteen of which shall have been in the public day schools of the city or in the schools or classes maintained in institutions controlled by the charities department or by the department of correction;

3. By a vote of at least eight of its members, on the recommendation of the board of retirement, retire upon his or her application any member of the teaching or supervising staff of the public day schools of the city or teacher of schools or classes maintained in institutions controlled by the charities department or department of correction who shall have been engaged in the work of teaching or of school or college supervision or of examination of teachers for licenses or any two or more of such kinds of work for a period aggregating thirty years, fifteen of which shall have been in any of the said schools or institutions.

§ 534. General provisions. A person retired after thirty years of service shall receive as an annuity one-half the annual salary paid to him at the date of retirement, not to exceed, however, if a teacher or principal the sum of seventeen hundred and fifty dollars and if a member of the supervising staff two thousand dollars. An annuity of a person heretofore or hereafter retired after thirty years of service shall not be less than six hundred dollars. A person retired after twenty years of service but with less than thirty years of service shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of said person bears to thirty years. The annuities provided for shall be payable in monthly instalments. All retirements shall take effect either on the first day of February or on the first day of September. The number of persons retired in any one year shall be so limited that the entire amount of the annuities to be paid for that year shall not be in excess of the estimated amount of the retirement fund applicable to the payment of annuities for that year. The board of education may reinstate in active service on his or her application any person who has been retired. Upon such reinstatement the payment of the annuity of said person shall be discontinued.



§ 535. Appropriation for clerical expenses. On the recommendation of the board of retirement, the board of education may authorize the comptroller to expend from the public school teachers' retirement fund a sum not exceeding fifteen hundred dollars in any one year for clerical and other expenses in connection with the work of the board of retirement, payments therefrom to be made on vouchers prepared and audited in the same manner as payments from other funds under the jurisdiction of the board of education.

## ARTICLE 5.

### GENERAL AND SPECIAL PROVISIONS.

#### Section 540. Nautical school.

- 541. Salaries; classes and grades continued.
- 542. Salaries of members of teaching staff.
- 543. Reports to mayor.
- 544. Removal by mayor.
- 545. Certain private schools authorized to participate in common school fund.
- 546. Reports as to moneys and attendance.
- 547. Trustees of certain schools may convey them to the city.
- 548. Sectarian schools; restrictions as to appropriations; bible retained.
- 549. Public school moneys; state apportionment.
- 550. Anniversary day in the borough of Brooklyn.
- 551. School notice.
- 552. Officers and employees continued.

§ 540. Nautical school. The board may maintain and conduct a nautical school for the education and training of pupils in the science and practice of seamanship and navigation. The board may cause pupils of such school to take cruises for the purpose of obtaining a practical knowledge of navigation and of the duties of mariners, and the board may apply to the United States government for the use of vessels and supplies needed for the purposes of the school. The chamber of commerce of the city of New York may appoint a committee to serve as a council of the nautical school and to co-operate with the board of education in the management and development thereof.

§ 541. Salaries; classes and grades continued. Except as otherwise provided in this act, the salaries, classes and grades of all

officers and employees including all members of the supervising and teaching staffs of the department of education shall continue as they now exist until changed by the board of education with the approval of the board of estimate and board of aldermen. Janitors and janitor engineers shall continue to be paid upon the basis of compensation now received by them.

§ 542. Salaries of members of teaching staff. Salaries of the members of the teaching staff shall be as follows:

The salary, including the annual increment, to which a present member is entitled under a specific salary schedule now existing shall not be reduced. Beginning with the first day of the third month following the taking effect of this act the salaries, including the annual increments, of all members shall be not less than those fixed in the schedules and schedule conditions approved by the board of education on the seventeenth and twenty-fourth days of May, nineteen hundred and eleven. After said date, if a present male member be advanced to a position higher in rank, his salary, including the annual increment, in the advanced position shall be that fixed in the schedule therefor in force at the time of such advance, except that it shall be not less than that received by him immediately prior to such advance. The salary of a principal, assistant to principal or head of a department shall be not less than that now fixed for any regular teacher in the elementary schools. In the schedules of salaries hereafter adopted there shall be no discrimination based on the sex of the member. A copy of such schedules and schedule conditions approved by the board of education on the seventeenth and twenty-fourth days of May, nineteen hundred and eleven, certified by the secretary of the board, shall, within thirty days hereafter, be filed in the office of the secretary of state.

§ 543. Reports to mayor. The board of education shall, on or before the thirtieth day of November in each year, make and transmit to the mayor a report in writing for the year ending on the thirty-first day of July next preceding stating the whole number of schools under its jurisdiction during said year; the number of teachers; the total number of pupils on register and the average attendance at each school; the number of high schools and training schools for teachers, with the number of teachers and the attendance of pupils at each; the corporate schools or societies from which reports have been received, the length of time such schools have been kept open, and the number of teachers and of

pupils taught in each such school. The board of education shall also on or before the fifteenth day of February in each year make and transmit to the mayor another report as of the thirty-first day of December next preceding stating in detail the amount of money expended for the purposes of public education during the year then ending. The board of education shall also make in said reports such suggestions and recommendations relative to the public schools as it may deem proper.

§ 544. Removal by mayor. A member of the board of education may be removed by the mayor upon proof of official misconduct; neglect of duty; conduct tending to discredit him, his office or the school system; or mental or physical inability to perform his official duties; but before removal he shall receive a copy of the charges and notice of hearing and be entitled to the assistance of counsel. His removal may be reviewed on certiorari.

§ 545. Certain private schools authorized to participate in common school fund. The school established and maintained by the Five Points House of Industry in the city of New York, the school established and maintained by the Ladies' Home Missionary Society of the Methodist Episcopal Church at the institution in Park street near the place usually called the Five Points and the industrial schools established and maintained under the charge of the Children's Aid Society in the city of New York shall participate in the distribution of the common school fund in the same manner and degree as the common schools in the city of New York and shall be subject to the same regulations and restrictions as are imposed on the schools of the city.

The New York Orphan Asylum School, the Roman Catholic Orphan Asylum Schools, the schools of the two half orphan asylums, the school of the Society for the Reformation of Juvenile Delinquents in the city of New York, the school for the Leake and Watts' Orphans' House, the school connected with the almshouse of the city, the school of the Association for the Benefit of Colored Orphans, the schools of the American Female Guardian Society, the schools of the New York Juvenile Asylum, the New York Infant Asylum, the Nursery and Child's Hospital including the country branch thereof; the orphan asylums and industrial schools as existed in the city of Brooklyn on the thirty-first day of December, eighteen hundred and ninety-seven and the several schools and branches thereof; the schools organized under the act entitled "An act to extend to the city and county of New York the provisions of the general act in relation to the common

schools," passed April eleventh, eighteen hundred and forty-two or an act to amend the same, passed April eighteenth, eighteen hundred and forty-three or an act entitled "An act more effectually to provide for common school education in the city and county of New York," passed May seventh, eighteen hundred and forty-four or any of the acts amending the same shall be subject to the general supervision of the board of education and shall be entitled to participate in the apportionment of the school moneys as provided for in this chapter, but they shall be under the immediate direction of their respective trustees, managers and directors.

§ 546. Reports as to moneys and attendance. The board of education shall require from the officers conducting schools by appointment of the board and from the trustees, managers or directors of the corporate schools entitled to participate in the apportionment of school moneys an annual report in such form as the board may prescribe. In making the apportionment among the several schools, no share shall be allotted by the board to any school or society from which such annual report shall not have been received. Whenever an apportionment of school moneys shall be withheld from a school in consequence of an accidental omission to make a report required by law or to comply with any other regulation or provision of law the board of education may direct an apportionment to be made to such school.

§ 547. Trustees of certain schools may convey them to the city. The trustees, managers and directors of any of the corporate schools entitled to participate in the apportionment of the school moneys may convey their property to the city on such terms as may be agreed to by the board of estimate.

§ 548. Sectarian schools; restrictions as to appropriations; bible retained. No school shall be entitled to or receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect shall be taught, inculcated or practiced or in which any book containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect shall be used or which shall teach the doctrines or tenets of any other religious sect or which shall refuse to permit the visits and examinations provided for in this chapter. But nothing herein contained shall authorize the board of education or any local school board to exclude the Holy Scriptures without note or comment or any selections therefrom from a school; but the board of education shall not decide what version, if any, of the Holy Scriptures shall be used in a

school; provided that nothing herein contained shall be so construed as to violate any rights secured by the constitution of this state or of the United States.

§ 549. Public school moneys; state apportionment. When the city clerk receives notice from the state commissioner of education of the amount of moneys apportioned to the city for the support and encouragement of common schools therein, he shall immediately notify the board of estimate and the chamberlain. The chamberlain shall apply for and receive the school moneys apportioned to the city as soon as the same are payable and pay the same into the city treasury to the credit of the general fund for the reduction of taxation.

§ 550. Anniversary day in the borough of Brooklyn. The first Thursday in June in each year, except the years when the first Thursday in June occurs in the same week with memorial day and in such years the second Thursday in June, known as anniversary day and celebrated in commemoration of the organization of Sunday schools is hereby made and declared to be a holiday in all the public schools in the borough of Brooklyn and the board of education shall cause all public schools in such borough to be closed on said day.

§ 551. School notice. The board may cause notices announcing the opening of schools, public lectures, recreation and playground centers, examinations to be held by the board of examiners and examinations for admission to the training schools for teachers to be published in daily and weekly publications published in the city.

§ 552. Officers and employees continued. Except as otherwise provided in this act the administrative officers and employees of the department and the members of the supervising and teaching staffs shall continue to hold their respective offices and positions for the remainder of the terms for which they were severally elected or appointed.

## ARTICLE 6.

### COLLEGE OF THE CITY OF NEW YORK.

Section 560. College to continue as separate corporation.

561. Trustees of college; number and appointment.

562. Participation in state funds.

563. Maintenance of college.

564. Instruction to be furnished gratuitously; degrees and diplomas.

## Section 565. Reports of trustees.

## 566. College officials, and professors' retirement fund.

§ 560. College to continue as separate corporation. The College of the City of New York shall continue to be a body corporate and as such shall have the powers and privileges of a college pursuant to the education law.

§ 561. Trustees of college; number and appointment. The board of trustees of said college shall consist of nine residents of the city to be appointed as hereinafter provided, and the president of the college and the president of the board of education of the city ex officio. Except as herein otherwise provided, the board of trustees shall have and possess the powers conferred upon and be subject to the duties required of the trustees of colleges by the education law. Each of the trustees appointed by the mayor shall hold office for the term of nine years. The trustees now in office shall serve for the remainder of the terms for which they were respectively appointed. On or before the first day of June prior to the expiration of the term of office of a trustee the mayor shall appoint his successor for a full term of nine years from the first day of July following. The mayor shall fill any vacancy existing in the office of trustee, other than the president of the college and the president of the board of education, by the appointment of a trustee to hold office for the unexpired term. Each trustee so appointed shall take the constitutional oath of office. A resignation from the office of trustee shall be made to the mayor. A trustee may be removed by the mayor upon proof of official misconduct or neglect of duty or of conduct tending to discredit him or his office or for mental or physical inability to perform his duties, but before such removal he shall receive a copy of the charges and notice of hearing and shall be entitled to the assistance of counsel. His removal may be reviewed on certiorari. The board of trustees may prescribe by-laws and regulations for the board and for the government of the college, its faculty, instructors and other employees. Such by-laws shall include rules governing the appointment of all officers, members of the faculty, instructors and other employees. A majority of the appointive members of the board shall constitute a quorum for the transaction of business and no resolution or act of the board shall be invalid by reason of any vacancy existing in the board, provided that such act or resolution be adopted by a vote of five appointive members.

§ 562. Participation in state funds. The College of the City of New York shall be entitled to participate in the distribution of the income of the literature and other funds in the same manner and upon the same conditions as the other colleges of the state, and the regents of the university of the state of New York shall pay annually to the chamberlain of the city of New York in trust for the college the distributive share of said funds to which the college shall be entitled, which shall be applied and expended for library books for the college.

§ 563. Maintenance of college. It shall be the duty of the trustees of the college, annually on or before the first day of September, to report to the board of estimate such sum as they require for the payment of the salaries of the professors and officers and maintenance and general expenses of the college and appropriation may be made therefor. The trustees shall not make any expenditure or incur debt beyond the amount appropriated.

§ 564. Instruction to be furnished gratuitously; degrees and diplomas. The trustees shall furnish education gratuitously to boys who shall have been pupils in the city schools and to all other male students actually resident in the city and who pass the required examination for admission. The trustees, upon the recommendation of the faculty of the college, may grant the usual degrees and diplomas. The trustees may also provide extension courses, approved by the board of education, open to the teachers of the public school system.

§ 565. Reports of trustees. The trustees shall make and transmit annually on or before the first day of February in each year to the mayor a report as of the thirty-first day of December next preceding, which shall give information concerning the trustees, faculty, students, instruction, equipment, methods, funds and operations and such other information in relation to the college and the management thereof as the mayor may require.

§ 566. College officials' and professors' retirement fund. The retirement fund for the president, vice-president, professors, assistant professors and instructors of the college is continued and shall consist of one per centum of the annual salaries of all members of the supervising and teaching staffs of the college to be deducted by the board of trustees on each pay-roll from the compensation of each member during the period covered by such pay-rolls; and of one per centum annually, or as much thereof as is necessary, of all moneys received into the city treasury from excise

taxes for the business of trafficking in liquors. The comptroller shall, as directed by the board of trustees, pay out the same. The comptroller shall report in detail to the board of trustees annually in the month of January the amounts paid out by him in the preceding year on account of the retirement fund. The board of trustees may, by a two-thirds vote of all its members, retire any member of the supervising or teaching staff of the college who shall have attained the age of sixty-five years and shall have been engaged as a supervising officer, professor, assistant professor or instructor in the college for ten years and shall have taught in some university, college, academy, educational institution or in the common schools of this or some other state altogether for thirty years, and in the event of such retirement he shall be entitled to an annuity as follows: A president, vice-president, professor, assistant professor or instructor who shall have served consecutively for twenty years in the college or who is connected with the college and shall have served the college for ten years and taught or acted as supervising officer in some university, college, academy, educational institution or in the common schools of this or some other state altogether for thirty years shall on his own application be retired from active service, and upon such retirement, duly approved by a majority vote of the board of trustees, be entitled to receive an annuity out of said retirement fund of one-half the annual salary paid to him at the date of such retirement, and should said annuity, in case of a professor, be less than three thousand dollars it may in the discretion of the board be increased to such sum; the board may, by a two-thirds vote of all its members, appoint a person who has been retired as hereinbefore provided to active duty for a term of not more than one year in a position similar to that formerly held by him and such person so appointed to active duty shall be entitled to the annuity to be paid out of the retirement fund as hereinbefore provided and an additional sum to be paid out of funds in the hands of the board of trustees for the general expenses of the college as compensation for his services, which additional sum shall be equal to the difference between the amount of the annuity received by him and the amount of his salary for the year immediately preceding his retirement so that the total amount paid him shall equal his salary for the year immediately preceding his retirement.



## ARTICLE 7.

## HUNTER COLLEGE OF THE CITY OF NEW YORK.

Section 575. Hunter College of The City of New York.

576. Board of trustees; powers and duties.

577. Participation in statè funds.

578. Maintenance.

579. Instruction to be furnished gratuitously; degrees and diplomas.

580. Reports of trustees.

581. College officials' and professors' retirement fund.

Section 575. Hunter College of The City of New York. Hunter College of The City of New York is hereby constituted a corporation and shall be the successor of the Normal College of The City of New York. Hunter College of The City of New York shall have the powers and privileges of a college pursuant to the education law.

§ 576. Board of trustees; powers and duties. The board of trustees of said college on and after the first day of the month following the taking effect of this act shall consist of nine residents of the city to be appointed as hereinafter provided, the president of the college and the president of the board of education ex officio. At least three members of the board of trustees shall be women. Except as herein otherwise provided, the board shall have and possess the powers conferred upon and be subject to the duties required of the trustees of colleges by the education law. The mayor shall appoint nine persons to serve as trustees to hold office respectively as designated by the mayor, for one, two, three, four, five, six, seven, eight and nine years. Prior to the expiration of the term of office of a trustee the mayor shall appoint his successor for a full term of nine years. The mayor shall fill any vacancy existing in the office of trustee, other than the president of the board of education and the president of the board of education, by the appointment of a trustee to hold office for the unexpired term. Each trustee so appointed shall take the constitutional oath of office. A resignation from the office of trustee shall be made to the mayor. A trustee may be removed by the mayor upon proof of official misconduct or neglect of official duty or of conduct tending to discredit him or his office or for mental or physical inability to perform his duties, but before such removal he shall

receive a copy of the charges and notice of hearing and shall be entitled to the assistance of counsel. A removal may be reviewed on certiorari. The board of trustees shall have power to prescribe by-laws and regulations for the board and for the government of the college, its faculty, instructors and employees. Such by-laws and regulations shall include rules governing the appointment of all officers, members of the faculty, instructors and employees. A majority of the members of the board shall constitute a quorum for the transaction of business and no resolution or act of the board shall be invalid by reason of any vacancy existing in the board, provided that such resolution or act be adopted by a vote of five appointive members.

§ 577. Participation in state funds. The college shall be entitled to participate in the distribution of the income of the literature and other funds of the state in the same manner and upon the same conditions as the other colleges of the state and the regents of the university of the state shall pay annually to the chamberlain in trust for the college the distributive share of the funds to which the college shall be entitled and which shall be applied and expended for library books.

§ 578. Maintenance. It shall be the duty of the trustees annually on or before the first day of September to report to the board of estimate such sum as they may require for the payment of salaries of the professors, officers and employees and for maintenance and general expenses, and appropriation may be made therefor. The trustees shall not make any expenditure or incur debt beyond the amount appropriated.

§ 579. Instruction to be furnished gratuitously; degrees and diplomas. The board of trustees shall furnish education gratuitously to girls who shall have been pupils in the city schools and to all other girls actually resident in the city and who pass the required examination for admission; and the board of trustees, upon the recommendation of the faculty of the college, may grant the usual degrees and diplomas. The board of trustees shall furnish normal instruction in manual training for the purpose of preparing teachers of manual training.

§ 580. Reports of trustees. The board of trustees shall make and transmit annually on or before the first day of February to the mayor a report as of the last day of December next preceding giving information concerning the trustees, faculty, students, instruction, equipment, methods, funds, operations and

such other information in relation to the college and the management thereof as the mayor may require.

§ 581. College officials' and professors' retirement fund. A retirement fund for the supervising and teaching staffs of the college and for the training department of the college is hereby created and shall consist of one per centum of the annual salaries of all persons who may become entitled to pensions under this section, to be deducted by the board of trustees on each and every pay-roll of all members of the supervising and teaching staffs of the college from the compensation of each member during the period covered by such pay-rolls; and one per centum annually, or as much thereof as is necessary, of all moneys paid during the next preceding calendar year into the city treasury from excise taxes for the business of trafficking in liquors. The comptroller shall upon the direction of the board of trustees pay out the same. The board of trustees may, by a two-thirds vote of all its members, retire any member of the teaching or supervising staffs of the college or of the training department of the college who is mentally or physically incapacitated for the performance of duty, who shall have been engaged in such college or training department or elsewhere in the public school system of the city for fifteen years and shall have been engaged in the work of teaching or of school or college supervision or of examination of teachers for licenses or any two or more of said kinds of work during a period aggregating twenty years, and in the event of such retirement he shall be entitled to the annuity hereinafter provided. The board of trustees may also retire any member of the teaching or supervising staff of the college upon his application who shall have been engaged in the work of teaching or school or college supervision or examination of teachers for licenses, or any two or more such occupations, for a period aggregating thirty years. Upon retirement the person retired shall be entitled to receive an annuity out of the fund equal to one-half of the annual salary paid to him at the date of retirement, and should the annuity in the case of a professor be less than three thousand dollars it may be increased to said sum. A person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of such person bears to thirty years. The annuities provided for by this act shall be payable in monthly instalments. This article shall not

be construed as prohibiting the reappointment to active service on his application of a person who has been retired. Upon the reappointment of any such person the payment of the annuity shall be discontinued.

## CHAPTER XIV.

### DEPARTMENT OF WATER, GAS AND ELECTRICITY.

- Article 1. General provisions. (§§ 590-591.)  
2. Water supply. (§§ 595-610.)  
3. Gas, electricity, steam and pneumatic power.  
(§§ 615-623.)

## ARTICLE 1.

### GENERAL PROVISIONS.

Section 590. Commissioner and deputies; office in each borough.  
591. Jurisdiction.

Section 590. Commissioner and deputies; office in each borough. The head of the department shall be the commissioner of water, gas and electricity. He shall appoint six deputies and a secretary of the department. The department shall maintain an office in each borough.

§ 591. Jurisdiction. The department shall have jurisdiction, charge and control

1. Of all structures and property connected with the supply and distribution of water for public use, except those owned by private corporations, including all fire and drinking hydrants and all water meters;

2. Of furnishing and maintaining an ample supply of pure and wholesome water and of the investigation, planning and construction of all work necessary to deliver such supply with sufficient reserve for contingencies and future demands;

3. Of collecting revenues from the sale or use of water;

4. Of making and enforcing rules and regulations governing and restricting the use and supply of water; of establishing, subject to the approval of the board of estimate, standards of size, weight and quality of all new fittings which shall hereafter be used for the distribution of water in or outside of buildings; of making rules and regulations concerning and of fixing, subject to the approval of the board of estimate, uniform charges and extra and miscellaneous charges for supply of water, the installation of meters, their connections, setting and maintenance and fines for

violation of rules and regulations and of enforcing such rules and regulations and collecting such charges and fines; of the purchase of meters from private owners; and of making and enforcing rules and regulations and fixing and collecting charges and fines in cases where no rules and regulations or charges or fines approved by the board are applicable. But no fine shall be imposed against any property unless notice thereof be mailed by the department to the property addressed to the owner, or where his name is unknown to "owner or occupant," and a hearing be afforded;

5. Of making and enforcing regulations governing the use of gas, electricity, pneumatic power and steam;

6. Of making and performing contracts for furnishing the city or any part thereof with gas, electricity or other illuminant or with steam; of selecting, locating and changing lights for the use of the city; of inspecting and testing gas and electricity used for light, heat or power and electric wires and lights; of the use and transmission of gas, electricity, pneumatic power and steam in, upon, across, over and under all streets, parks and public buildings; of constructing gas, electric and steam mains, conduits, conductors and subways in streets and parks and granting permission to open streets, subject to the approval of the borough president, for the purpose of transmitting, conducting, using and selling gas, electricity or steam or for the service of pneumatic tubes;

7. Of making and performing contracts with a town or village within the watershed of the city water supply for the disposal of its sewage.

## ARTICLE 2.

### WATER SUPPLY.

Section 595. Sources of water supply; commissioner's power in regard thereto.

596. Contracts for water supply; restrictions.

597. Water rents, when charge and lien; action to recover; meter charges, how determined.

598. Water rents; not due until entered.

599. Water rents; when payable; penalty for nonpayment.

600. Water supply may be cut off for nonpayment of charges.

601. Notice of rules; penalty for nonpayment of water rents.

602. Water meters.

**Section 603. Unpaid water rents returned to chamberlain.****604. Water for street-cleaning purposes.****605. Unauthorized taking of water; penalty; liability.****606. Preventing or obstructing access to stop-cocks, pipes or meters; penalty.****607. Water supply property in counties outside the city; taxation.****608. Withdrawals from Lake Mahopac.****609. Putnam county; acquisition of lands and water rights and the use of waters in.****610. Prevention of pollution of water supply.**

**Section 595. Sources of water supply; commissioner's power in regard thereto.** The commissioner may examine into the sources of water supply of any private company supplying or proposing to supply the city or a portion thereof or its inhabitants with water to insure an adequate supply by such company of pure and wholesome water and to establish reasonable and necessary rules and regulations in relation thereto; and may superintend, regulate and control the supply of water by such companies and may fix rates and charges therefor which shall be just and reasonable; and in case of a controversy the question of what is just and reasonable shall be finally determined as a judicial question on its merits by a court of competent jurisdiction. The city may contract with a municipal corporation or board thereof for a supply of water from its water system and convey such water to the city. The city may acquire by purchase, lease or otherwise lands or water in other states, or rights, interests or privileges in, to or over lands or water in other states for the purpose of supplying water to the city. This section shall not limit the rights, property, power or jurisdiction now possessed by the city in relation to the possession, maintenance, operation or completion of its present water system. The city shall have the right to use the ground or soil under any street, highway or road within the state for the purpose of conveying water to the city, on condition that it cause the surface of such street, highway or road to be restored to its original state and repair all damage.

**§ 596. Contracts for water supply; restrictions.** The commissioner may contract with a municipal corporation or board thereof or person or corporation engaged in the business of supplying or selling water for the purchase of water by the city or for the sale of the city's water, provided that consent first be given by the board

of estimate and by the mayor. All proceedings relating to the making or approval of any such contract may be reviewed by the appellate division of the supreme court in the first or second department on the application of any resident taxpayer.

§ 597. Water rents, when charge and lien; action to recover; meter charges, how determined. Water rents shall from the time they are payable be a charge against the real property upon which they are imposed and, if not paid to the department, shall be returned by the commissioner to the chamberlain and shall from the time they are payable to the receiver of taxes be a lien against such property until paid. In addition to collecting water rents by sale of tax lien the city may maintain an action for their recovery against the person for whose benefit or by whom the water is taken or used. Where charges are made for water supplied by meter, the charge for water so supplied to the whole or to any portion of the premises by meter shall be determined, except as hereinafter provided, by the quantity of water actually used as shown by such meters.

§ 598. Water rents; not due until entered. No charge for expense of meters, their installation, connections, setting and maintenance or fine or penalty imposed against any premises supplied with water by meter shall be due or become a charge on the real property where a water meter shall be installed or against which a charge shall be made until such charge shall have been definitely fixed by the commissioner or such other person as he may delegate, and an entry of the amount thereof shall have been made, with the date of such entry, in the book in which the charges for water supplied by meter against real property are to be entered. No charge for water supplied by meter shall be due or become a charge upon the premises where such meter is installed until an entry shall have been made indicating that said premises are metered, with the date of such entry, in the book in which the charges for water by meter measurement against such premises are to be entered. Whenever an increase in the amount of the annual frontage rate or extra or miscellaneous charges shall be made or a charge shall have been made for water for any building completed subsequent to the first day of January in each year the increase in the amount of the charge or new charge for such new building shall not be due or become a charge against the premises until the amount thereof shall have been entered, with the date of such entry, in the book in which the annual frontage rate and extra or miscellaneous charges against such premises are to be entered.

§ 599. Water rents; when payable; penalty for nonpayment. Annual frontage rates and extra and miscellaneous charges for water not metered shall be due and payable in advance on the first day of January in each year, if entered; and if not paid to or received by the department before the close of the last business day of the following March, shall be subject to a penalty of five per centum and if not paid to or received by the department before the close of the last business day of the following June to a further penalty of ten per centum. If not so entered and payable but entered in any quarter of a year, they shall be due and payable when entered and shall, after the mailing before or upon the close of such quarter of notice thereof to the premises against which they are imposed addressed to "owner or occupant" be subject, if not paid to or received by the department before the close of the last business day of the next quarter, to a penalty of five per centum and, if not paid to or received by the department before the close of the last business day of the next succeeding quarter to a further penalty of ten per centum. Meter charges, including charges for the supply of water by meter and the expense of meters, their installation, connections, setting and maintenance, shall be due and payable when entered, and such charges when entered in any quarter of a year shall, after the mailing before or upon the close of such quarter of notice stating the amount due and the nature of the charge to the last known address of the person whose name appears on the record of such charges as being the owner, occupant or agent or, where no name appears, to the premises addressed to "owner or occupant" be subject, if not paid to or received by the department before the close of the last business day of the next quarter, to a penalty of five per centum and if not paid to or received by the department before the close of the last business day of the next succeeding quarter to a further penalty of ten per centum. The first annual frontage rates and extra and miscellaneous charges for water not metered due and payable in advance under this act shall include such rates and charges for a period of only eight months of the year, namely: May first to December thirty-first, inclusive.

§ 600. Water supply may be cut off for nonpayment of charges. The commissioner may, where charges other than frontage charges have been made by the department and remain unpaid for more than thirty days after notice thereof mailed to

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the premises addressed to "owner or occupant," shut off the supply of water to the premises. In case frontage charges are not paid within the period covered by such frontage charges and a notice of such nonpayment is mailed by the department to the premises addressed to "owner or occupant" the commissioner may shut off the supply of water to such premises.

§ 601. Notice of rules; penalty for nonpayment of water rents. The rents and charges for supply of water, the rules and regulations concerning the use of water and all other regulations affecting users of water or concerning charges for supply of water, restrictions of the use of water, installation of meters and fines for violation of rules and regulations shall be printed on each bill and permit so far as in the judgment of the commissioner they are applicable. This act and such printing and the printing of this section on such bills and permits shall be sufficient notice to water takers to authorize the imposition and recovery of any fines imposed under such rules and regulations and of any penalties imposed in pursuance of this act, in addition to cutting off the supply of water.

§ 602. Water meters. The commissioner may cause water meters, the pattern and maximum price of which shall have been or shall be approved by the board of aldermen to be placed in all premises owned or leased by the city and all stores, workshops, hotels, manufactories, office buildings, loft buildings, public edifices, properties exempt from water charges, at wharves, ferry-houses, piers, bulkheads, stables, in all premises used for business purposes and in all premises in which water is furnished for business purposes or consumption or for power, heat, steam, light or refrigeration and, if authorized by ordinance, in any or all apartment-houses, tenement-houses, private dwellings and premises, where no water is furnished for such purposes. Thereafter, as shall be determined by the commissioner, the department shall make out all bills and charges for water furnished by the department to such premises (except premises exempt from water charges) not owned or leased by the city in ratable proportion to the water furnished as ascertained by meter, except that when a meter fails to register correctly or ceases to record the water or where a meter shall have been removed from a building for repairs or for any other reason then the commissioner may disregard such incorrect registry or non-registry and may charge for water supplied during the period of such incorrect registry or nonregistry and during the period

when such meter shall have been out of such building for repairs or for any other reason at the average daily registration of water indicated by the meter for the period of three months subsequent to its repair, resetting or installation and proper registration upon said premises. Except as to premises exempt from water charges and not owned or leased by the city, all expense and cost of meters, their installation, connections, setting and maintenance, when incurred or borne by the department upon the failure of the owner after notice mailed to the premises directed to the "owner or occupant" to incur such expenses, shall together with all water rents be a charge against the premises where such water is supplied and shall, from the time they are payable to the receiver of taxes, be a lien against the premises until paid. The reasonable value of the necessary time of a plumber acting under direction of the commissioner in visiting premises for the purpose of installing a meter therein when the owner fails to make such installation as herein provided, shall, when such plumber is refused admission or access to the premises or is prevented by the owner or his agent or tenant from making the required installation, become a lawful charge and lien against such premises in like manner as other charges.

§ 603. Unpaid water rents returned to chamberlain. The commissioner annually on the first day of March shall cause to be transmitted to the chamberlain a separate account for each section or ward of the city of all lots against which there is unpaid any frontage charge or extra or miscellaneous charge for water not metered which became payable on or before the thirtieth day of the preceding June with any fine for violation of rules or regulations imposed on or before the thirtieth day of June and any unpaid penalty for nonpayment of the charge together with the amount due for such charge, penalty or fine on each lot. He shall also annually on the first day of March cause to be transmitted to the chamberlain a similar separate account for each section or ward of the city of all lots against which there are unpaid any meter charges, including charges for the supply of water by meter and the expense of meters, their installation, connections, setting and maintenance, which became payable before the thirtieth day of the preceding June with any fine for violation of rules and regulations imposed before the thirtieth

day of June and any penalty for nonpayment of the charges together with the amount due for any such charge, penalty or fine on each lot. The commissioner shall at the same time notify the comptroller of the aggregate of such charges as returned and shall thereafter receive no payment on account of the same, but may, nevertheless, certify to the chamberlain and the comptroller any error or overcharge, which shall pursuant to such certificate be corrected and remitted or refunded as the case may be by the comptroller and chamberlain. Prior to the time that such charges transmitted to the chamberlain are entered upon the tax-rolls and become payable to the receiver of taxes payment thereof may be made to the chamberlain and such payment shall be credited by the receiver of taxes.

§ 604. Water for street cleaning purposes. The commissioner may permit the commissioner of street cleaning or a borough president or person having a contract for flushing or washing streets or water front property to use as much water as may be necessary for such purposes. Any such contract shall provide for reasonable payment to the department at fixed rates for water so used.

§ 605. Unauthorized taking of water; penalty; liability. No person not authorized by the commissioner or this act or other statute shall take water from any hydrant, main or water connection in the city. A person violating this provision shall be subject to a penalty of fifty dollars for each violation and to an additional penalty of twenty-five dollars for each day the same continue to be recovered by action. Any person so taking water shall in addition be liable for the quantity of water so taken which in an action for the recovery of the value thereof at meter rates shall be presumed to be the amount of water which would pass through the pipes from which the water was taken under the pressure existing at any time during the period of such taking.

§ 606. Preventing or obstructing access to stop-cocks, pipes or meters; penalty. A person preventing or obstructing access to stop-cocks, pipes or meters connected with the water service by any means, including the placing thereon or thereby or permitting to be so placed by his agent, tenant or employee, stone, brick, lumber, coal, dirt or other material, shall be subject to a penalty of fifty dollars for each violation and to an additional penalty of twenty-five dollars for each day the same shall be continued after service of notice of removal.

§ 607. Water supply property in counties outside the city; taxation. Real property, exclusive of aqueducts, taken for water supply purposes of the city or for the purpose of preventing contamination or pollution of its water supply shall be assessed and taxed in the counties in which it is located in the manner prescribed by law.

§ 608. Withdrawals from Lake Mahopac. Only water in excess of the ordinary flow shall be drawn from Lake Mahopac in the town of Carmel, Putnam county, between the first days of March and September.

§ 609. Putnam county; acquisition of lands and water rights and the use of waters in. The city shall not acquire by condemnation any factory in Putnam county which, prior to the year eighteen hundred and eighty-one, had been used for the manufacture of food products; nor acquire by condemnation any real property on the east branch of the Croton river below the village of Brewster in the town of Southeast, Putnam county, for the construction of any reservoir in which water may be impounded at a level higher than three hundred and ten feet above tide water at the city of New York. Whenever the waters of natural lakes in Putnam county shall have been acquired by the city or reservoirs shall have been constructed the residents of said county shall have the right of boating and fishing in said lakes and reservoirs and of taking ice therefrom, subject to such regulations as the commissioner may make to preserve the purity of the water and to prevent nuisances. Any municipal or other corporation in the county of Putnam or person authorized to establish therein a system for supplying a village or town or the inhabitants thereof with water may connect its or his water mains or pipes with the lakes, streams, reservoirs, aqueducts, water pipes and conduits of the city located in such county and take water therefrom for such purpose. Such connections shall be made in the manner agreed upon between such corporation or person and the commissioner or as directed by a special term of the supreme court held in the ninth judicial district upon application of such corporation or person. The amount of water that may be drawn shall not exceed the proportionate amount that is used by the city, the proportion being calculated according to the number of inhabitants respectively of the city and the village or town as shown by the last preceding census of the United States. The amount to be paid to the city for water so supplied shall be agreed upon between the board of estimate and

the authorities of such village or town or such corporation or person or fixed by a special term of the supreme court held in the ninth judicial district upon application of such corporation or person.

§ 610. Prevention of pollution of water supply. The state department of health shall, for the purposes of this section, fix and determine the "area of pollution" of each lake, reservoir and stream taken, reserved or maintained for water supply purposes which shall comprise the lands bounding upon each such lake, reservoir and stream extending fixed distances from the high water line of the lake or reservoir or from the center of the stream. A map or maps showing the lands within a county comprised within such area of pollution shall be filed in the office of the recording officer of such county. The necessary expenses incurred by the state department of health shall be a charge against the city. The commissioner of water, gas and electricity shall, within the portion of such area of pollution comprised within a municipality, possess all of the powers of a local board of health of such municipality as provided by the public health law or other statute in so far as the same may relate to the pollution of any such lake, reservoir or stream. The city shall be liable for all direct damages to property.

### ARTICLE 3.

#### GAS, ELECTRICITY, STEAM AND PNEUMATIC POWER.

Section 615. Restrictions upon officers and employees.

616. Electrical inspections.

617. Notice of violations.

618. Street lighting; separate contracts for each borough.

619. Inspection of lights; meters and tests.

620. Removal of overhead wires in Manhattan and Bronx.

621. Removal of overhead wires in Brooklyn, Queens and Richmond.

622. Removal of conductors.

623. Disturbance of pavements and street surfaces; permits.

Section 615. Restrictions upon officers and employees. No officer or employee of the department shall, directly or indirectly, be pecuniarily interested in the manufacture or sale of gas, electricity or steam or of gas or electric or steam meters or of any article or

commodity used by gas or electric companies or in the consumption of gas, electricity or steam or give certificates or written opinions to a maker or vendor of any such article or commodity or be so interested in a gas, electric or steam company.

§ 616. Electrical inspections. The commissioner shall have control of and shall cause to be inspected electrical equipment, apparatus and appliances placed in any building, street or premises and shall furnish a certificate of such inspection to any person applying therefor.

§ 617. Notice of violations. Notice of violation of any ordinance or regulation, rule or order relating to gas and electricity or to gas or electrical equipment, apparatus or appliances shall be served personally on the owner or his agent or the contractor furnishing the equipment, apparatus or appliances or by mail addressed to such owner, agent or contractor at his last known residence or place of business.

§ 618. Street lighting; separate contracts for each borough. The commissioner shall prepare the specifications of contracts for lighting the streets, public buildings and parks and for furnishing gas, electricity or steam for light, heat or power to public buildings. Separate contracts shall be made for lighting in each borough or subdivision of the city as the board of estimate may determine. A contract for public lighting shall be made for a term not exceeding one year. A contract made for a borough or other subdivision of the city shall include all lights of the same kind used in such borough or subdivision ordered by the commissioner during the term of said contract. But no contract shall be awarded unless the board of estimate be satisfied that the bidder has sufficient plant to carry out its provisions.

§ 619. Inspection of lights; meters and tests. The commissioner shall cause inspection to be made of gas and electric lights furnished to the city and cause tests to be made of all meters in use in the city for measuring the quantity of steam or pneumatic power furnished by any corporation or person in the city. No person shall furnish or install any meter for measuring steam or pneumatic power which shall not have been inspected, approved and sealed or stamped by an inspector of the department, and every such person shall keep on his premises suitable testing apparatus, approved and sealed by an inspector for proving the accuracy of meters furnished for use. Meters in use shall be re-inspected and tested on the written request of a consumer or of the purveyor in the presence of the consumer, if desired. If

any such meter on being tested shall be found defective or inaccurate to the prejudice or injury of the consumer, the necessary removal, inspection, correction and replacing of such meter shall be without expense to the consumer; but in all other cases, except where the change is beneficial to the purveyor, the consumer shall pay the reasonable expense of such inspection, and the reinspection shall be stamped on the meter. Every person using such meters shall at all reasonable times admit the inspectors of meters of the department to inspect all meters and all processes, methods and operations of measuring steam or pneumatic power.

§ 620. Removal of overhead wires in Manhattan and Bronx. When the board of estimate, after notice to and after hearing the owners or operators, shall have determined that the electrical conductors above ground in any street within the borough of Manhattan or Bronx, the grade of which shall have been established, be removed and placed underground the commissioner shall notify the owners or operators of such electrical conductors to remove and place the same underground within a reasonable time fixed by the commissioner. When application be made to the commissioner and permission be granted according to law to place underground electrical conductors in a street in the borough of Manhattan or Bronx the subways therefor shall be constructed or provided and the conductors placed underground in accordance with the provisions of chapter seven hundred and sixteen of the laws of eighteen hundred and eighty-seven, chapter two hundred and thirty-one of the laws of eighteen hundred and ninety-one, chapter two hundred and sixty-three of the laws of eighteen hundred and ninety-two and the laws amendatory thereof and supplemental thereto.

§ 621. Removal of overhead wires in Brooklyn, Queens and Richmond. When the board of estimate, after notice to and hearing the owners or operators, shall have determined that electrical conductors above ground in a street in the borough of Brooklyn, Queens or Richmond be placed underground, the commissioner shall notify the owners or operators of such conductors to remove and place the same underground within a reasonable time to be fixed by the commissioner, which time shall be sufficient for the proper construction of the necessary underground conduits or other subsurface structures in such streets and the placing of said electrical conductors underground. When a duly authorized person operating

or intending to operate electrical conductors in a street in the borough of Brooklyn, Queens or Richmond desire to place his conductors or any of them underground, he shall file with the commissioner a map or maps showing the streets desired to be used for such purpose giving the general location, dimensions and course of the underground conduit desired to be constructed. The commissioner shall require the work of removal and construction of every system of underground conductors to be done according to a plan approved by him.

§ 622. Removal of conductors. If a person ordered to remove and place underground electrical conductors fail to comply with the order of the commissioner within the time fixed therefor, the commissioner shall within thirty days remove such conductors at the expense of the owner or operator of such conductors and shall in the name of the city maintain an action against such owner or operator to recover the expense of such removal with costs.

§ 623. Disturbance of pavements and street surfaces; permits. No person shall take up the pavement or disturb the surface of a street or excavate for the purpose of laying underground conductors of gas, electricity, steam or pneumatic power, constructing subways, or erecting poles unless permission in writing therefor shall have been first obtained from the commissioner with the written permit of the borough president of the borough within which it is desired to perform such work. No such conductors shall be placed or maintained above or below the surface of a street without permission in writing from the commissioner. The commissioner shall determine whether any extension of existing conductors shall be by means of overhead or underground conductors.

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## CHAPTER XV.

## POLICE DEPARTMENT.

Article 1. Organization and jurisdiction of the department.  
(§§ 630-657.)

2. Pension fund. (§§ 660-667.)

## ARTICLE 1.

## ORGANIZATION AND JURISDICTION OF THE DEPARTMENT.

Section 630. Police commissioner; deputies.

631. Composition of police force.

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633. Qualifications of members; publishing names and residence of applicants and appointees.

634. Detective service.

635. Police surgeons, duties and districts.

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650. House of detention of witnesses.

651. Designation of station-houses for detention of females.

652. Accommodations for females; communication with prisoners.

653. Proceedings where female is arrested.

654. Complaints; oath may be required.

655. Arrests; execution of warrants.

656. Returns of arrest; arraignments.

657. Property clerk; powers and duties.

Section 630. Police commissioner; deputies. The head of the department shall be the police commissioner. He shall have charge of the property and control of the government and administration of the department and of the disposition and discipline of the police force including the power of appointment, detail and transfer. He shall appoint five deputies and a secretary of the department. He may delegate to a deputy any of his powers except the power of making appointments, removals and transfers.

§ 631. Composition of police force. There shall be the following ranks in the police force: Captain, lieutenant, sergeant, patrolman, matron, chaplain, superintendent of telegraph, assistant superintendent of telegraph, telegraph operator, chief lineman, lineman, wireman, batteryman, surgeon, and the members of such ranks shall constitute the uniformed force of the department. The rank or grade of doormen of police is abolished and the doormen of police now in office shall become and have all the rights and privileges of patrolmen. Time served as doormen shall for all purposes count as if served as patrolmen.

§ 632. Grades. The commissioner may classify patrolmen into grades with the consent of the board of estimate and the concurrence of the board of aldermen.

§ 633. Qualifications of members; publishing names and residence of applicants and appointees. No person shall be eligible to appointment to or membership in the police force who shall not be a citizen of the United States, who shall have been convicted of felony, who shall be unable to read or write understandingly the English language or who shall not have resided within the state one year next preceding his appointment. No person shall be appointed patrolman who shall be at the date of filing of his application for civil service examination over thirty years of age. The name, residence and occupation of each applicant for appointment or reappointment or reinstatement to any position in the department and the name, residence and occupation of each person appointed, reappointed or reinstated to any position shall be published in the City Record on the Saturday next succeeding such application, appointment, reappointment or reinstatement. Preliminary to a permanent appointment as patrolman there shall be a period of probation for such time as may be fixed by statute or civil service rule and no person shall receive a permanent appointment who shall not have served the required probationary period. Service

during probation shall constitute service in the uniformed force if succeeded by permanent appointment and shall be included and counted in determining eligibility for advancement, promotion, retirement and pension.

§ 634. Detective service. The commissioner shall, from time to time, detail to detective service as many members of the police force as he may deem necessary and may at any time revoke any such detail. Of the members of the police force so detailed the commissioner may designate such number as the board of estimate determine as detectives of the first grade who, while performing detective duty and while so designated as detectives of the first grade, shall be paid the salary of lieutenant. The commissioner may at pleasure revoke any such designation. The person assigned to the active command of the detective service, while acting in such capacity, shall receive the same salary as a captain detailed to act as inspector. A member detailed to service as a detective shall retain his rank in the force and shall be eligible for promotion, while so detailed, the same as if serving in uniform, and the time during which he serves as a detective shall count for all purposes as if served in his rank and grade.

§ 635. Police surgeons, duties and districts. The commissioner shall prescribe the duties and define the districts of the police surgeons. He shall designate a surgeon to be chief surgeon. A police surgeon shall have the same rank as a captain detailed as inspector. The commissioner may, if requested by the health department, require the police surgeons to aid the sanitary inspectors in the discharge of their duties.

§ 636. Police matrons. The commissioner shall assign to each station designated for the detention of women three police matrons. Police matrons shall be appointed to station-houses attached or adjacent to magistrates and special sessions courts. While a female is detained in a station-house a matron shall remain constantly on duty. A matron shall, subject to the officer in charge, have the care and charge of all females detained in the station-house. Police matrons may be assigned to duty in dance halls, places of amusement and parks. The provisions of the general city law relative to police matrons shall not apply to the city.

§ 637. Officers and employees in the telegraph service. Hereafter a member of the uniformed force in the telegraph service of the department, not now a member of the uniformed force, who shall have entered the department as a member of the telegraph service

shall not be liable to police duty or eligible to promotion except in the telegraph service. The length of service in the department of a member of the uniformed force in the telegraph service shall, for all purposes, be counted from the time of his entry into the service of the department.

§ 638. Promotions. Promotions of members of the police force shall be made by the commissioner on the basis of seniority and meritorious service and superior capacity as shown by competitive examination, but no detail to act as inspector or to service as a detective shall be deemed a promotion. Individual acts of personal bravery shall be treated as an element of meritorious service in such examinations, and the relative rating therefor shall be fixed by the municipal civil service commission. The commissioner shall transmit to the municipal civil service commission in advance of an examination the complete record of each candidate in the rank and grade then held by him. In such an examination a candidate shall not be charged with delinquencies which shall have occurred more than three years prior thereto. Sergeants shall be selected from among patrolmen of the first grade. Lieutenants shall be selected from among sergeants who shall have served at least two years continuously as such. Captains shall be selected from among lieutenants who shall have served at least three years continuously as such.

§ 639. Captains detailed as inspectors. The commissioner may detail nineteen captains to act as inspectors and such additional number of captains to act as inspectors as shall be authorized by the board of estimate and may at pleasure revoke any such detail. While so detailed such officer shall receive such additional salary as may be fixed for said service. When a captain shall have acted under regular details as inspector for a period aggregating five years, he shall, upon retirement, receive the pension which he would be entitled to receive if, at the time of his retirement, he were acting under regular detail as inspector. While a captain is acting under a temporary detail as inspector in place of and during the temporary disability or absence of a captain so detailed he shall not be entitled to additional salary and the period of such temporary detail shall not be counted in computing such five-year period.

§ 640. Duty of department and police force. It is the duty of the department and members of the police force at all times of day and night to preserve the public peace, to detect and prevent

crime, to regulate street traffic and to enforce all laws and ordinances and prevent their violation.

§ 641. Department to co-operate with health department. The department shall advise promptly the health department of conditions dangerous to human life and health and of violations of its rules and ordinances and of the health laws. The department shall execute the sanitary rules and regulations and written orders of the department of health. The police department may employ appropriate means to enforce the rules, orders and regulations of the health department and any expenditures incurred shall be refunded to the department from the appropriation for the health department. The health department may, with the consent of the commissioner, impose any portion of the duties of its subordinates upon subordinates in the police department.

§ 642. Details to departments. The commissioner, upon the request of the head of any department, board, body or office, may detail to the service of such department, board, body or office such number of members of the police force as in his judgment may be necessary or the mayor may direct. He shall detail at least one member of the force for service at each polling place on election day.

§ 643. Special patrolmen. The police commissioner in case of public necessity and with the consent of the mayor may designate special patrolmen to keep the peace and guard the property of any person or corporation operating public service utilities or institutions to which delinquents are committed by law for correction or detention or to act as messengers in carrying moneys or securities of bankers, banks or moneyed corporations. Their compensation shall be fixed by agreement between the police commissioner and the person, corporation or institution to whom they shall be assigned and paid into the city treasury in advance and drawn therefrom and paid by the police commissioner by his drafts or checks. They shall be under the direct supervision of a regular captain or lieutenant of police and shall not receive orders or directions from the person, corporation or institution to whom they may be assigned, but shall act on their own discretion and according to law as public officers. They shall have all the powers of regular patrolmen and shall obey the rules of the police department; they shall not have any claim for or receive pay from the city except as provided nor be eligible for any pension or other benefit created for regular patrolmen.

§ 644. Telegraph and telephone lines. The commissioner shall have power to erect, operate, equip and maintain such telegraph and telephone systems as may be required for the purposes of the department. Subject to the rules and regulations of the department its telegraph and telephone service may be used for any city purpose.

§ 645. Marine service; mounted patrols. The commissioner may procure and use boats and establish mounted patrols for police service.

§ 646. Jurisdiction over certain businesses and occupations. The department shall have general jurisdiction over and supervision and regulation of pawnbrokers, hawkers, peddlers, junk-shop keepers, junk boatmen, cartmen, dealers in second hand merchandise, intelligence office keepers and auctioneers.

§ 647. Rewards. The commissioner may, with the consent of the board of estimate, offer a reward for information leading to the detection, arrest or conviction of a person guilty of crime or the arrest of a person suspected of having committed a crime.

§ 648. Gratuities. A member of the police force or employee of the department shall not, directly or indirectly, receive for his own benefit, under penalty of removal, any present, fee, gift or emolument for police services or for services of the department or any member thereof, in addition to his regular salary or compensation. The commissioner for meritorious or extraordinary services rendered by a member of the police force in the discharge of his duty may permit such member to retain for his own benefit a reward or present or a part thereof tendered him for such service. A member who receives a reward or present shall immediately give notice thereof to the commissioner. Upon receiving such notice the commissioner may either authorize the member to retain the same or a part thereof or order it turned over to the commissioner for the benefit of the police pension fund.

§ 649. Station-houses; boundaries of precincts; headquarters. The commissioner shall, when authorized by the board of estimate, establish, provide and equip at least one station-house or sub-station-house in each precinct for the accommodation of members of the police force and places for temporary detention. The number and boundaries of police precincts shall be fixed by the commissioner. One headquarters or central station may be established by the commissioner in each borough.

§ 650. House of detention of witnesses. The commissioner shall provide suitable accommodations for the detention of witnesses

who are unable to furnish security for their appearance in criminal proceedings, other than children actually or apparently under the age of sixteen years, to be called house for the detention of witnesses; and such accommodations shall be in premises other than those used for the confinement of persons charged with crime. It shall be the duty of all magistrates when committing witnesses in default of bail to commit them to a house for detention of witnesses.

§ 651. Designation of station-houses for detention of females. The commissioner may designate and revoke the designation of station-houses for the detention of females under arrest. He shall designate at least one such station-house in each borough. In every station-house designated for the detention of females or to which police matrons are appointed toilet accommodations shall be provided separate and apart from those provided for male prisoners and male officers.

§ 652. Accommodations for females; communication with prisoners. The commissioner shall provide sufficient accommodation for females in detention. No communication shall be had between males and females detained in a station-house. No person, other than a matron, shall be allowed to communicate with female prisoners without the consent of the officer in command of the station-house.

§ 653. Proceedings where female is arrested. When a female is arrested and taken to a station-house to which a matron is attached, the officer in command shall cause the matron to be summoned forthwith, and when a female is arrested if taken to a station-house she shall be taken directly to the nearest station-house designated to receive females in the borough. The separate detention or removal of females shall not operate to deprive a court of jurisdiction.

§ 654. Complaints; oath may be required. A person making a complaint that a crime has been committed may be required to make oath or affirmation thereto, and for this purpose the police commissioner, each deputy, the chief clerk or a deputy clerk of the department and each captain and lieutenant shall have power to administer oaths and affirmations.

§ 655. Arrests; execution of warrants. The members of the police force shall possess in every part of the state all the common-law and statutory powers of constables, except for the service of civil process, and a warrant for search or arrest issued by any

magistrate in the state may be executed in any part thereof by any member of the police force.

§ 656. Returns of arrest; arraignments. A member of the police force shall upon making an arrest report the same immediately to the superior officer on duty in the precinct wherein the arrest was made; and such superior officer shall within twenty-four hours thereafter make written return thereof according to the rules and regulations of the department, with the name of the person arrested, the alleged offense, the time and place of arrest and the place of detention. Each member of the police force shall, upon making an arrest without a warrant, after reporting the arrest to such superior officer, convey the person arrested before the nearest sitting magistrate. If no magistrate be then sitting, the person arrested may be detained in a precinct or station-house until the magistrate sit and shall then be conveyed without delay before the magistrate. The commissioner shall make suitable rules and regulations to prevent the undue detention of persons arrested.

§ 657. Property clerk; powers and duties. The commissioner shall designate or appoint a property clerk who shall give a bond approved by the commissioner for the faithful performance of his duties. All property or money taken on suspicion of having been feloniously obtained or of being the proceeds of crime and for which there is no claimant other than the person from whom it was taken, all lost property coming into the possession of a member of the police force and all property and money taken from pawnbrokers as the proceeds of crime or by a member from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves shall be transmitted as soon as practicable to the property clerk. All property and money received by the property clerk shall be described and registered in a book kept for that purpose which shall contain the name of the owner or claimant, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the same, a description thereof, the names of all claimants thereto and its final disposition. When property or money taken from a person arrested is alleged to have been feloniously obtained or to be the proceeds of crime and brought, with all ascertained claimants thereto and the person arrested before a magistrate for adjudication, if the magistrate be satisfied that person arrested is innocent of the offense alleged and that the property or money



rightfully belongs to such person the magistrate shall in writing order such property or money returned; the property clerk, if he have it, shall deliver such property or money to the accused person himself and not to any attorney, agent or clerk of such accused person. If a claim to the ownership of such property or money be made on oath before the magistrate by or in behalf of any person other than the person arrested and the accused person be held for trial or examination such property or money shall remain in the custody of the property clerk until the discharge or conviction of the person accused and until lawfully disposed of. Property, other than animals, delivered to the property clerk shall, after the expiration of six months, be advertised for ten days in the City Record and if there be no lawful claimant thereto be sold at public auction as the commissioner prescribe. Animals delivered to the property clerk shall, under his direction, be properly cared for and after the expiration of ten days be advertised for sale in the City Record for five days, and if there be no lawful claimant thereto be sold at public auction as the commissioner prescribe. The proceeds of such sales shall be paid into the police pension fund. If property or money in the custody of the property clerk be desired as evidence in any criminal court it shall be delivered to any officer who shall present an order to that effect from such court. Such property, however, shall not be retained in said court but shall be returned to the property clerk.

## ARTICLE 2.

### PENSION FUND.

Section 660. Police pension fund; commissioner trustee of.

661. Funds to be paid trustee; false affidavits.

662. Composition of fund.

663. Appropriation for deficit.

664. Retirement of and pensions to members.

665. Pensions to dependents.

666. When certain pensions terminate; existing pensions continued.

667. Certificate of disability; rules as to pensions.

Section 660. Police pension fund; commissioner trustee of. The commissioner shall be the trustee and treasurer of the police pension fund. He shall, before entering upon his duties, give a bond in the penal sum of one hundred thousand dollars to be ap-

proved by and filed with the comptroller conditioned upon the faithful discharge of his duties and the accounting for all moneys and property which shall come into his hands. The expense of the commissioner for sureties on the bond shall be a charge upon the fund. He shall have charge of, invest and administer the fund. He shall make payments from the fund of pensions now charged on the fund or any part thereof by or under existing laws, and shall be the legal successor of the trustee or trustees of the police life insurance fund and of any police pension fund heretofore existing within the present limits of the city, including the pension fund of the former park police of the mayor, aldermen and commonalty of the city of New York and the pension fund of the park police of the former city of Brooklyn. He may establish rules and regulations for the disposition, investment, preservation and administration of the fund. No payment shall be allowed or made from the fund as reward, gratuity or compensation to any person for salary or services rendered to or for the trustee except compensation for the expense of procuring sureties on his bond as treasurer. On or before the first day of February the trustee shall make a verified report as of the thirty-first day of December next preceding to the mayor and board of aldermen of the condition of the fund and of his proceedings as trustee containing a statement of all receipts and disbursements on account of the fund together with the name and residence of and the amount paid each beneficiary. The bookkeeper of the police department shall have charge of the accounts and be responsible to the trustee for the receipts and disbursements of all moneys that shall come into his hands for or on account of the fund, and he shall, from time to time, render the trustee a verified statement containing the names of all the beneficiaries and the amounts paid them; and he shall give to the trustee a bond in the penal sum of ten thousand dollars, to be approved by the trustee, conditioned for the faithful discharge of his duties; and said bookkeeper shall be entitled to participate in the pension fund as if a member of the police force. The commissioner of accounts and statistics shall, on or before the first day of March audit the accounts of the trustee.

§ 661. Funds to be paid trustee; false affidavits. All moneys, bonds, investments, securities, revenues and incomes belonging to the fund shall be paid over and delivered to the commissioner as trustee. A person who knowingly or willfully makes or procures

the making or presentation of a false or fraudulent affidavit concerning any claim for pension or payment thereof shall in addition to other punishment forfeit a sum not exceeding two hundred and fifty dollars, to be sued for and recovered by and in the name of the trustee and, when recovered, to be paid into and become a part of the fund.

§ 662. Composition of fund. The police pension fund shall consist of

1. The capital, interest, income, dividends, cash, deposits, securities and credits formerly belonging to the police life insurance fund and any police pension fund heretofore existing;

2. All forfeitures imposed upon and moneys withheld from members of the police force as punishment;

3. All rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member of the police force on account of police services, except those allowed by the commissioner to be retained by the member;

4. All lost, abandoned, unclaimed or stolen money remaining in the possession of the property clerk for one year for which there shall be no lawful claimant and all moneys arising from the sale by the property clerk of unclaimed, abandoned, lost or stolen property and all moneys realized, derived or received from the sale of any condemned, unfit or unserviceable property belonging to or in possession or under the control of the department;

5. All moneys, salary or compensation forfeited, deducted or withheld from a member of the police force on account of absence, lost time, sickness or other disability, physical or mental, to be paid monthly to the treasurer of the fund;

6. The sum of four hundred and thirty thousand dollars each year to be paid out of moneys received into the treasury from excise taxes upon the business of trafficking in liquors;

7. All moneys derived from the granting of permits for masked balls, entertainments or parties;

8. A sum of money equal to two per centum of the monthly salary or compensation of each member of the police force, which sum shall be deducted monthly from the salary or compensation of such member and be paid to the treasurer of the fund;

9. All gifts or bequests which may be made to the fund;

10. All moneys collected and payable to the fund on account of violations of the agricultural law or under other provision of statute;

11. All moneys appropriated for the benefit of the fund.

§ 663. Appropriation for deficit. If the fund applicable to the payment of pensions be insufficient, the commissioner shall, at the time of making up the departmental estimate prepare a full and detailed statement of the fund and estimated receipts thereof and the payments to be made therefrom during the succeeding calendar year and present the same to the board of estimate; and an appropriation shall be annually made for such estimated deficit, if any.

§ 664. Retirement of and pensions to members. The commissioner shall retire and dismiss members of the police force from membership therein and thereupon grant annual pensions during the lifetime of the beneficiary which shall not be reduced or revoked

1. Upon his own application in writing, to a member who shall have served for a period of at least twenty-two and one-half years a sum equal to one-half his annual salary;

2. Upon his own application in writing to a member who is an honorably discharged soldier or sailor of the army or navy of the United States in the late civil war a sum equal to one-half his annual salary;

3. To a member of the age of sixty-five years a sum equal to one-half his annual salary;

4. To a member, who, in the performance of duty and by reason thereof and without fault or misconduct on his part shall have become permanently disabled, physically or mentally so as to be unfitted to perform police duty a sum equal to one-half his annual salary;

5. To a member who shall after five years of service by reason of disability, physical or mental, have become, without fault or misconduct on his part unfitted or unable to perform police duty a sum, in the discretion of the commissioner, equal to not less than one-fourth or more than one-half his annual salary.

§ 665. Pensions to dependents. The commissioner shall grant annual pensions to the dependent parents, widow or children of a deceased member of the police force as follows: If such member shall have been killed in the actual performance of duty or have died from the effects of injury received in the actual discharge of duty and leave a dependent parent or parents but no widow, or children under eighteen years of age, the sum of six hundred dollars to such parent or parents; if he leave a widow, or a widow and child or children under eighteen years of age, the sum

of six hundred dollars to the widow or to the widow and child or children, or if the widow die or remarry to the child or children; or if he leave no widow but a child or children under eighteen years of age, the sum of six hundred dollars to such child or children. If such member die after ten years of service or after retirement upon a pension and leave a widow or widow and child or children under eighteen years of age, the sum of three hundred dollars to the widow or the widow and child or children, or if the widow die or remarry, to such child or children; or if he leave no widow but a child or children under eighteen years of age, the sum of three hundred dollars to such child or children. In the case of a member killed or dying prior to the first day of January, eighteen hundred and ninety-eight, pensions granted to his dependent parents, widow or children shall be such as he or they would have been entitled to under the laws in force immediately prior to said date.

Pensions granted under this section shall be paid from the date of the death of the member and if there be more than one beneficiary shall be divided among the beneficiaries in such proportions as the trustee may from time to time direct. The term "widow" as used in this article shall not include the widow of a member who became his wife after his retirement.

§ 666. When certain pensions terminate; existing pensions continued. Pensions to widows shall terminate when the widow remarry and pensions to a child shall terminate whenever the child marry or arrive at the age of eighteen years. All existing pensions heretofore granted payable out of the police life insurance fund or any police pension fund of which the police commissioner is trustee shall continue to be paid out of the police pension fund.

§ 667. Certificate of disability; rules as to pensions. No member shall be granted a pension on account of physical or mental disability unless a certificate of so many of the police surgeons as the commissioner may require, setting forth the disease or disability from which the member is suffering and the extent of the disability be filed in the department. The determination of the surgeons shall be final.

## CHAPTER XVI.

## FIRE DEPARTMENT.

**Article 1.** Organization and jurisdiction of the department.  
(§§ 680-695.)

2. Fires and their extinguishment. (§§ 700-704.)
3. Fire prevention. (§§ 710-720.)
4. Taxation of insurance agents. (§§ 725-728.)
5. Fire pension fund; life insurance fund. (§§ 730-737.)
6. Contributions to exempt or veteran volunteer firemen's associations. (§§ 740-744.)

## ARTICLE 1.

## ORGANIZATION AND JURISDICTION OF THE DEPARTMENT.

**Section 680.** Fire commissioner; deputies.

681. Jurisdiction.
682. Bureaus.
683. Composition of fire force.
684. Grades.
685. Qualifications of firemen.
686. Promotions.
687. Members in the telegraph service.
688. Telegraph and telephone system.
689. Steam boiler inspection.
690. Chief veterinarian.
691. Right of entry upon private property.
692. Investigation of fires.
693. Municipal explosives commission.
694. Fire precautions.
695. Volunteer fire companies.

**Section 680.** Fire commissioner; deputies. The head of the department shall be the fire commissioner. He shall have charge of the property and control of the government and administration of the department and of the disposition and discipline of the members and employees. He shall appoint two deputies and a secretary of the department. The commissioner shall be the treasurer of the department and shall give a bond, to be approved by and filed in the office of the comptroller, in the penal sum of twenty thousand dollars for the faithful performance of his duties as treasurer and accounting for all moneys that may come into his hands.

§ 681. Jurisdiction. The department shall have exclusive power and authority in relation to the extinguishment, prevention and investigation of fires in the city and throughout the port of New York.

§ 682. Bureaus. There shall be in the department a fire bureau, which shall have charge of the extinguishment of fires and the protection of property, the head of which shall be the "fire chief"; a bureau of fire prevention, which shall have charge of the execution of all laws, ordinances and regulations for the prevention of fires and the construction, installation and maintenance of auxiliary appliances and fire alarm and protective systems for the prevention and extinguishment of fires, the inspection of fire escapes and means of exit in case of fire, and the installation and maintenance of safety appliances, the head of which shall be the "chief of fire prevention"; a bureau of combustibles, which shall have charge of the execution of all laws, ordinances and regulations relating to the manufacture, storage, sale, transportation and use of combustibles, chemicals and explosives, the head of which shall be the "inspector of combustibles"; two bureaus of fire investigation which shall have charge of the investigation of the origin and cause of fires and explosions, one in the boroughs of Manhattan, Bronx and Richmond, the other in the boroughs of Brooklyn and Queens, the head of each bureau to be a "fire marshal"; a veterinary bureau, which shall have general supervision of horses and forage, the head of which shall be the "chief veterinarian"; and a bureau of boiler inspection. A branch of the bureau of fire prevention and of the bureau of boiler inspection shall be located in the borough of Brooklyn.

§ 683. Composition of fire force. There shall be the following ranks in the fire force:

Fire chief, deputy fire chief, deputy fire chief in boroughs of Brooklyn and Queens, battalion chief, captain, lieutenant, engineer of steamers, fireman, motor engineer, fire marshal, assistant fire marshal, chief medical officer, medical officer, chief veterinarian, chaplain, pilot, marine engineer, marine stoker, chief telegraph operator, telegraph operator, assistant telegraph operator, wireman and inspector of boilers. The officer now in charge of the department in the boroughs of Brooklyn and Queens shall have the rank of deputy fire chief in boroughs of Brooklyn and Queens. The members of such ranks and the members of other ranks now in the uniformed force shall constitute the uniformed force of the department.

§ 684. Grades. The commissioner may classify the members of each rank into grades with the consent of the board of estimate and the concurrence of the board of aldermen.

§ 685. Qualifications of firemen. No person shall be eligible for appointment to or membership in the fire force, who shall not be a citizen of the United States, who shall have been convicted of felony, who shall be unable to read and write understandingly the English language or who shall not have resided within the state one year next preceding his appointment. No person shall be appointed a member of the fire force who shall be at the time of the filing of his application for civil service examination over the age of thirty years. Preliminary to a permanent appointment as fireman there shall be a period of probation for such time as may be fixed by statute or civil service rule, and no person shall receive a permanent appointment who shall not have served the required probationary period, but service during probation shall constitute service in the uniformed force if succeeded by permanent appointment and shall be included and counted in determining eligibility for advancement, promotion, retirement and pension.

§ 686. Promotions. Promotions of members of the uniformed force shall be made by the commissioner on the basis of seniority and meritorious service and superior capacity, as shown by competitive examination. Individual acts of personal bravery shall be treated as an element of meritorious service in such examinations and the relative rating therefor shall be fixed by the municipal civil service commission. The commissioner shall transmit to the municipal civil service commission in advance of an examination the complete record of each candidate in the rank and grade then held by him. In such an examination a candidate shall not be charged with delinquencies which shall have occurred more than three years prior thereto.

§ 687. Members in the telegraph service. The rank of wireman shall include the following: Wireman, foreman lineman, lineman, foreman cable splicer, cable splicer, batteryman and groundman. A member of the uniformed force in the telegraph service of the department shall not be liable to duty as a fireman or, unless he shall have entered the department as a fireman, eligible to promotion except in the telegraph service. The length of service in the department of a member of the uniformed force in the telegraph service shall for all purposes be counted from the time of his entry into the service of the department.



§ 688. Telegraph and telephone system. The commissioner shall have power to locate, erect, control, operate, equip and maintain such systems of telegraph and telephone, including signal and alarm system apparatus and stations, as may be required for the purposes of the department and may make rules and regulations for the control and government of the same. Upon such terms and conditions as the board of estimate may prescribe, the commissioner may license and shall supervise and control privately owned and operated fire alarm or signal systems connected with the system of the department and authorize such connection.

§ 689. Steam boiler inspection. The department shall have jurisdiction over the inspecting, testing and certifying of steam boilers. The inspectors shall be licensed engineers of at least five years' experience. The two inspectors of boilers now members of the uniformed force of the police department shall hereafter be members of the uniformed force of the fire department. Time served by them as members of the uniformed force of the police department shall count for all purposes as if served as members of the uniformed force of the fire department. Fees for boiler inspection shall hereafter be paid to the fire department.

§ 690. Chief veterinarian. The chief veterinarian shall be a duly licensed veterinary surgeon of at least ten years' experience and have served not less than one year in the department as a veterinarian.

§ 691. Right of entry upon private property. The commissioner and any duly authorized officer or employee of the department and any member of the municipal explosives commission may at any time enter and examine any building, structure, vessel or place for the purpose of ascertaining whether a law or ordinance relating to the prevention of fire, the storage, sale or use of combustibles, chemicals or explosives, fire escapes, fire appliances, fire protective systems, fire exits, safety appliances, or fire dangers, or whether an order of the commissioner or head of a bureau has been or is being complied with or for investigating the cause or origin of any fire or explosion or for serving a notice relating thereto.

§ 692. Investigation of fires. A fire marshal shall conduct an investigation as to each fire and suspected case of arson and incendiarism or explosion which may come to his notice, and for such purpose may take proof and testimony. He shall cause all testimony taken to be reduced to writing. He shall transmit the same

to the commissioner with his report in writing, stating his conclusions thereon. He shall also report in writing to the police commissioner, the district attorney, the New York board of fire underwriters and the owners or other persons interested in the property affected the facts and circumstances which, in his opinion, require the attention of any of said officers or persons. Whenever as a result of his investigations in his opinion the facts warrant it, a fire marshal may cause the arrest of a person suspected of having committed a crime and forthwith furnish to the proper district attorney the evidence relating to the commission of the alleged offense, the names of witnesses and such other facts as he deem pertinent.

§ 693. Municipal explosives commission. The municipal explosives commission as constituted by ordinance is continued. The appointive members of the commission shall hold office during the pleasure of the mayor. The commission shall formulate and adopt regulations governing the manufacture, storage, sale, use and transportation of combustibles, chemicals and explosives. The regulations of the commission, except such as relate exclusively to its organization or to the duties and discipline of its officers and employees, when approved by the fire commissioner, shall constitute a chapter of the code of ordinances. The commission and each member may take proof and testimony.

§ 694. Fire precautions. The commissioner may detail in any theater or place of public amusement, while open to the public, members of the department in uniform to guard against fire, have charge of fire extinguishing apparatus and prevent obstructions of aisles, passageways and exits and enforce all rules and regulations of the department. The department may make and enforce rules and regulations for the prevention of fire and the protection of life in all places where the public congregate for any purpose.

§ 695. Volunteer fire companies. The commissioner shall, as rapidly as practicable, extend the paid fire system throughout the boroughs of Queens and Richmond and disband any volunteer fire company rendered unnecessary by such extension. The members of any such disbanded volunteer fire company then in active service shall, upon passing a noncompetitive examination for fitness, be placed at the head of any eligible list for appointment as firemen. Real or personal property of any such volunteer fire company deemed useful shall be purchased, with

the approval of the board of estimate, by the department. Appropriations may be made for the maintenance and equipment of volunteer fire companies. The certificate of incorporation of a new volunteer fire company, in addition to the requirements provided by law, shall require the approval of the commissioner.

## ARTICLE 2.

### FIRES AND THEIR EXTINGUISHMENT.

Section 700. Right of way of fire department.

701. Command at fires; police to co-operate.

702. Destruction of buildings to prevent spread of fires.

703. Harbor fires.

704. Protection of firemen at fires.

Section 700. Right of way of fire department. The members of the department and of the insurance patrol with their apparatus shall when on duty have the right of way over all vehicles and other agencies for transportation, except those carrying the United States mail. The commissioner may authorize vehicles used for fire protection purposes to have the right of way over other vehicles and for such purpose issue revocable permits without charge. No person shall obstruct or interfere with the right of way given by this section.

§ 701. Command of fires; police to co-operate. During a fire the ranking officer of the force present in uniform shall have supreme command. Members of the police force shall perform such duties and render such assistance at fires as may be required by the officer of the fire department in command.

§ 702. Destruction of buildings to prevent spread of fire. If a building be on fire, the commissioner, fire chief, or officer in command may order it or any other building which he deem likely to take fire or to convey fire to other buildings to be removed or destroyed. An application may be made by any person having an interest in a building or its contents so removed or destroyed to the supreme court in the county in which the building was situated for a precept for a jury to inquire into and assess the damages. Such precept shall be issued, directed, executed, returned and proceeded upon and the proceedings thereon shall take effect as nearly as may be in the manner provided in the case of a writ of assessment of damages; and if the inquiry and assessment be confirmed by the court, the sums assessed by the jury shall be paid by the

city to the respective persons in whose favor the jury shall have assessed the same in full satisfaction of all demands of such persons respectively by reason of the removal or destruction of such building or its contents; and the court before which such process shall be returnable may compel the attendance of jurors and witnesses upon any such assessment of damages.

§ 703. Harbor fires. If a fire occur on a vessel upon the waters within or adjacent to the limits of the city or in or upon any water front property or warehouse, building or other structure bordering upon or adjacent to such water front property, the department shall have full power and authority to extinguish the fire and to take the necessary precautions to prevent its communication to shipping, water front property, warehouses, buildings or other structures in the vicinity, and the officers in command may prohibit the approach to or remove from the proximity of a vessel, water front property, warehouse, building or other structure in danger therefrom any person or vessel, provided, that this section shall not limit the authority of the master or crew of a vessel on fire or in danger from fire to control the operation of the vessel, subject to the general jurisdiction of the department to protect life and property.

§ 704. Protection of firemen at fires. All hoistways, well holes and trap doors in and all iron shutters upon any building or structure shall be closed at the close of business each day by the person having use or control thereof. For a personal injury or loss of life resulting directly or indirectly from a failure to comply with such requirement the person or persons so culpable or negligent shall be liable for damages to an officer or employee injured or in case of death therefrom to his personal representatives.

### ARTICLE 3.

#### FIRE PREVENTION.

##### Section 710. Jurisdiction.

- 711. Dangerous places; nuisances.
- 712. Powers of chief of fire prevention.
- 713. Imminent peril.
- 714. Service of orders.
- 715. Bureau may prohibit occupancy.
- 716. Police to assist.
- 717. Right to a survey.
- 718. Survey.

## Section 719. Expenses of surveys.

## 720. Violations of orders; penalty.

Section 710. Jurisdiction. The chief of fire prevention, under the direction of the commissioner, shall enforce all laws and ordinances and make orders relating to

1. The prevention of fires;
2. Fire and safety appliances and fire-protective systems, including automatic or other fire-alarm systems or fire-extinguishing appliances;
3. Fire escapes and means of exit not involving structure.

§ 711. Dangerous places; nuisances. The term "premises" in this article includes buildings, structures, inclosures, places and premises. Any premises or vessel which by reason of failure to comply with a statute or ordinance or order of the fire commissioner in respect of its use, contents, number of persons therein, means of exit or escape from fire, fire-alarm, fire-protection, fire-extinguishing or safety appliances is dangerous to life or property in case of fire is a nuisance within the meaning of this article.

§ 712. Powers of chief of fire prevention. The chief of fire prevention shall, under the direction of the commissioner

1. Cause the examination of buildings, structures, vessels, inclosures, places or premises or any part or contents thereof;
2. Order in writing the abatement of a nuisance;
3. Report in writing to the tenement house department or to the bureau of buildings having jurisdiction any inadequate fire escape or means of exit involving structure;
4. Cause a complete survey for fire prevention purposes of all buildings and structures, to be made either by contract or by means of the employees of the department, and maintain the same;
5. Enforce his orders and directions.

The chief of fire prevention shall, under the direction of the fire commissioner, direct the establishment of fire drills and the employment of competent persons to care for, operate and constantly supervise auxiliary fire and safety appliances and instruct employees in the use thereof.

§ 713. Imminent peril. The commissioner may, on the written certificate of the fire chief or chief of fire prevention that imminent peril exists, summarily order and enforce the temporary suspension of the use or occupancy of or access to premises or a

vessel until the nuisance is abated, and the order shall not be stayed by survey proceedings.

§ 714. Service of orders. When service of an order is required by this article such service may be made by delivering a copy thereof personally to the owner, agent or occupant of the premises or to the owner, agent or master of the vessel regarding which the order has been issued; or if the owner, agent, occupant or master cannot be found or be beyond the territorial limits of the city, service may be made by conspicuously posting a copy thereof upon such premises near the main entrance, if any, or upon such vessel and at the same time mailing, postpaid, a copy of the order to such owner, agent, occupant or master or addressed to his last known residence or place of business. It shall not be necessary to designate the owner, agent, occupant or master by name in such order but the premises or vessel affected by the order shall be designated so that the same may be readily identified.

§ 715. Bureau may prohibit occupancy. Upon the refusal or neglect of the owner, agent or occupant of the premises or owner, agent or master of the vessel designated in an order to comply therewith, the commissioner may prohibit the occupancy or use of such premises or vessel or public access thereto until the order be complied with or be stayed by survey proceedings. Such order shall be served upon the owner, agent, occupant or master.

§ 716. Police to assist. The commissioner may call upon the police department to assist in enforcing compliance with an order.

§ 717. Right to a survey. The owner, occupant or master or agent of either of any premises or vessel affected by an order required to be served may, within forty-eight hours after service thereof, make written demand upon the commissioner for a survey to determine whether such order be valid and reasonable, which demand must be served upon the commissioner, one of his deputies or the secretary of the department. Upon receipt of a demand for a survey an order shall be issued naming two persons to act as surveyors, one of whom shall be an officer or employee of the bureau of fire prevention, another an architect or builder of at least ten years' experience, chosen by the person making the demand. There shall be a third surveyor who shall be an architect or builder and be named by the surveyors named in the order, but in case of failure to agree upon the third surveyor within two days he shall be named by the mayor.

§ 718. Survey. The surveyors shall meet at a time and place to be fixed in the order naming surveyors and survey the prem-

ises or vessel referred to therein and consider the merits of the order directing the abatement of the nuisance. After such survey and consideration the surveyors shall prepare and sign a report of their proceedings and determination, which shall be filed in the department and a copy thereof shall be given upon application to the person demanding the survey. The determination of the surveyors may be reviewed on certiorari, which must be commenced within ten days after the filing of the report of the surveyors. The determination of the appellate division shall be final.

§ 719. Expenses of surveys. Each surveyor, other than an officer or employee of the department, shall be paid out of the contingent fund of the department the sum of twenty-five dollars for each survey in which he participates upon the filing of the report thereof in the department. The city shall be entitled to reimbursement by the person making the demand for all expenses incident to a survey if it be held that the order of the commissioner was valid and reasonable.

The commissioner may require as a condition precedent to the ordering of a survey that a deposit of at least one hundred dollars be made with the department to indemnify the city for the expenses of the survey and the unexpended balance of the deposit, or if it be finally held that the order was invalid or unreasonable, the whole shall be returned to the depositor. The city may maintain an action to enforce reimbursement of the expenses of a survey against an owner of real property who has demanded it.

§ 720. Violations of orders; penalty. A person failing to comply with any order made pursuant to this article shall, in addition to other punishment prescribed therefor, forfeit the sum of two hundred and fifty dollars for each offense, recoverable in an action by the city.

#### ARTICLE 4.

##### TAXATION OF INSURANCE AGENTS.

Section 725. Tax upon insurance agents.

726. Account of premiums by agent.

727. Undertaking; penalty.

728. Place of business to be reported.

Section 725. Tax upon insurance agents. There shall be paid to the fire commissioner annually on or before the first day of February by every agent for an individual, corporation or association, not incorporated under the laws of this state, insuring against

loss by fire in the city, two per centum upon the amount of all premiums which during the year ending on the next preceding thirty-first day of December shall have been received by such agent or by any other person for him for insurance against loss by fire by such individual, corporation or association upon property within the city. The amount of tax on premiums paid by the agents for any such corporation or association for any year shall be allowed by the chamberlain as a credit upon and in reduction of the amount of personal property tax assessed against the corporation or association, if any, upon the tax roll of the following year. The commissioner may employ clerical assistants in the collection of such tax at an expense to be paid therefrom not exceeding in the aggregate one per centum of the tax collected.

§ 726. Account of premiums by agent. Each such agent shall annually on the first day of February account to the fire commissioner on oath for all such premiums.

§ 727. Undertaking; penalty. No person shall act as such agent, until he shall have executed and delivered to the fire commissioner an undertaking with such sureties as the commissioner shall approve conditioned upon the faithful accounting for all such premiums received by him or by any other person for him and the payment of the tax thereon. When the commissioner deem the security on such undertaking insufficient, he may require the undertaking to be renewed, but not oftener than once in each year. Every person who shall act as such agent without having executed and delivered such undertaking or renewal thereof if required shall for each offense forfeit one thousand dollars for the use of the fire department. Every such agent who shall, for ten days after demand by the commissioner therefor, fail to render the account of premiums and pay the tax thereon shall forfeit for the use of the department fifty dollars and twenty-five dollars in addition for every day thereafter during default, which penalties shall be cumulative.

§ 728. Place of business to be reported. Every corporation, association or individual, not incorporated under the laws of this state, insuring against loss by fire in the city shall annually on or before the first day of February report in writing to the fire commissioner the name and address of each person authorized by such corporation, association or individual to write policies of insurance against loss by fire in the city. For each failure to so report any such corporation, association or individual shall forfeit the sum of one thousand dollars for the use of the department.



## ARTICLE 5.

## FIRE PENSION FUND; LIFE INSURANCE FUND.

- Section 730. Fire pension fund; commissioner, trustee of.  
731. Funds to be paid trustees; false affidavits.  
732. Composition of fund.  
733. Appropriation for deficit.  
734. Retiring members of the department; pensions.  
735. Pensions to dependents.  
736. Pensions under former relief funds continued.  
737. Life insurance fund.

Section 730. Fire pension fund; commissioner, trustee of. The commissioner shall be the trustee and treasurer of the fire pension fund. He shall, before entering upon his duties, give a bond in the penal sum of one hundred thousand dollars, to be approved by and filed with the comptroller, conditioned upon the faithful discharge of his duties and the accounting for all moneys and property which shall come into his hands. The expense of the commissioner for sureties on the bond shall be a charge on the fund. He shall have charge of, invest and administer the fund. He shall receive all moneys payable to the credit of the fund and deposit the same in banks or trust companies or invest the same in bond and mortgage on improved real property worth twice the amount of the loan or in securities in which savings banks may invest. He may make all necessary contracts and take all necessary action for the proper investment and protection of the fund. He shall make payments from the fund of pensions now charged thereon or any part thereof and shall be the legal successor of the trustee or trustees of any fire department relief or pension fund heretofore existing within the limits of the city and now constituting a part of the fire pension fund. He may establish rules and regulations for the disposition, investment, preservation and administration of the fund. No payments shall be allowed or made by the trustee from the fund as a reward, gratuity or compensation to any person for salary or services rendered to or for the trustee, except compensation for the expense of procuring sureties on his bond as treasurer. On or before the first day of February of each year the trustee shall make a verified report as of the thirty-first day of December next preceding to the mayor and board of aldermen of the condition of the fund and of his proceedings as such

trustee containing a statement of all receipts and disbursements on account of the fund, together with the name and residence of and the amount paid to each beneficiary for or on account of the fund. The commissioner of accounts and statistics shall on or before the first day of March of each year audit the account of the trustee.

§ 731. Funds to be paid trustee; false affidavits. All moneys, bonds, investments, securities, revenues and incomes belonging to the fire pension fund shall be paid over and delivered to the commissioner as trustee. Every person who knowingly or willfully makes or procures the making or presentation of any false or fraudulent affidavit concerning any claim for pension or payment thereof shall, in addition to other punishment, forfeit a sum not exceeding two hundred and fifty dollars to be sued for and recovered by and in the name of the trustee and when recovered be paid into and become a part of the fire pension fund.

§ 732. Composition of fund. The fire pension fund shall consist of

1. The capital, interest, income, dividends, cash, deposits, securities and credits formerly or now belonging to the fire department relief or pension funds in any of the municipal corporations heretofore consolidated to form the city of New York;

2. All forfeitures imposed upon and moneys withheld from members of the fire force as punishment;

3. All rewards of money, fees, gifts, testimonials and emoluments paid or given for extraordinary services by a member of the uniformed force, except those allowed by the commissioner to be retained by a member and those given to endow a medal or other permanent or competitive reward;

4. All fines, forfeitures and penalties collected for the violation of any law, ordinance, regulation or order relating to the protection of firemen at fires, the prevention of fires and explosions and the storage, sale and use of combustible materials and fees received for permits to sell petroleum products collected in the boroughs of Manhattan, Brooklyn or Bronx and forty-five per centum of such fines, forfeitures, penalties and fees for permits collected in the boroughs of Queens and Richmond;

5. All proceeds of sales of condemned horses and other personal property of the department and all fees paid for boiler inspection;

6. All moneys, compensation or salary forfeited, deducted or withheld from any member of the uniformed force, for or on

account of absence from duty, lost time, sickness or other disability, to be paid monthly to the treasurer of the fund;

7. Ten per centum annually of all excise taxes belonging to the city upon the business of trafficking in liquors received on account of licenses in the boroughs of Manhattan, Brooklyn and Bronx and four and one-half per centum annually of such excise taxes received on account of licenses in the boroughs of Queens and Richmond to be paid to the commissioner as treasurer of the fund;

8. Forty-five per centum of the moneys received by the commissioner from taxes upon the agents of foreign insurance companies;

9. All gifts or bequests which may be made to such fund;

10. All moneys collected and payable to the fund on account of violations of the agricultural law or other provision of statute;

11. All moneys appropriated for the benefit of the fund.

§ 733. Appropriation for deficit. If the pension fund or part thereof applicable to the payment of pensions be insufficient for such purpose, the commissioner shall each year at the time of making up the departmental estimate prepare a full and detailed statement of the fund and estimated receipts thereof and the payments to be made therefrom during the succeeding calendar year and present the same to the board of estimate; and an appropriation shall be annually made for such estimated deficit, if any.

§ 734. Retiring members of the department; pensions. The commissioner may retire from service in the department or relieve from fire service a member of the uniformed force found upon examination by a board of medical officers designated by the commissioner disqualified, physically or mentally for the performance of duty, and shall grant to the member so retired an annual allowance as pension in case of total disqualification or as compensation in case of partial disability the amount of which shall be determined as follows: In case of total permanent disability at any time caused by injuries received in the actual performance of duty or which may occur after ten years' active and continuous service the amount of pension shall be one-half of the annual salary of such member at the date of retirement, but should permanent disability caused by injuries received in the actual performance of duty disqualify him only from performing active fire duty, he shall be employed at the salary received when such disability occurred in a position not requiring active fire service; in case of total permanent disability

not caused by injuries received in the actual performance of duty or occurring before the expiration of ten years' active and continuous service the amount of annual pension shall be one-third of the annual salary of such member at the date of retirement; in case of partial permanent disability caused by injuries received in the actual performance of duty or occurring after ten years' active and continuous service the member shall be relieved from fire service, but shall remain a member of the uniformed force subject to its rules and to the performance of such duty as a board of medical officers certify him qualified to perform, and the allowance shall be one-half of his annual salary at the date of his being relieved; in case of partial disability not caused by injuries received in the actual performance of duty or occurring before ten years' active and continuous fire service the member shall be relieved from fire service, but shall remain a member of the uniformed force subject to its rules and to the performance of such duty as a board of medical officers certify him qualified to perform, and the allowance shall be one-third of his annual salary at the date of being relieved. A member of the uniformed force who shall have performed duty for twenty years or more, (a) upon his own application in writing, or (b) upon a certificate of a board of medical officers showing that he is permanently disabled, physically or mentally so as to be unfit for duty shall be retired and dismissed from the force and granted an annual pension for life equal to one-half his salary at the time of retirement.

§ 735. Pensions to dependents. The commissioner shall grant a pension to the widow, child, children and dependent parent or parents of a deceased member if his death occur during his service or after retirement from service, provided, that the division of such pension among such dependents shall, from time to time, be determined by the commissioner according to the circumstances of each case, and further provided, that not more than three hundred dollars be paid in any one year to any one dependent, except a widow of such member. In case a regular or probationary member of the uniformed force shall have been killed in the performance of duty or if, as the immediate effect of injuries received, disease causing death or death shall have ensued, the commissioner shall grant to the widow an annual pension equal in amount to one-half of his salary at the date of decease; and if one-half such salary do not equal six hundred dollars, the commissioner shall grant to the widow an annual pension of six hun-

dred dollars; and if there be no widow, but a child or children under the age of eighteen or dependent parent or parents, the commissioner shall grant to such child or children, dependent parent or parents an annual pension equal in amount to one-half the salary of the member at the date of his death. The amount of a pension to a widow shall in no event exceed one thousand dollars and shall cease upon her remarriage. The amount of pension paid any one child or dependent parent shall not exceed the sum of five hundred dollars and such payment shall cease upon the marriage of such child or upon his reaching the age of eighteen years. A pension to dependents may be divided among them in the discretion of the commissioner. The term "widow" as used in this article shall not include the widow of a member who became his wife after his retirement.

§ 736. Pensions under former relief funds continued. The widows and orphans and retired members of the former Brooklyn fire department or of any other fire department of any of the municipal and public corporations or parts thereof consolidated to form the city shall be entitled to receive from the pension fund the amounts which they were respectively entitled to receive on the thirty-first day of December, eighteen hundred and ninety-seven, from any fire department pension or relief fund theretofore existing.

§ 737. Life insurance fund. The commissioner shall be the trustee and treasurer of the life insurance fund of the department. The life insurance fund shall consist of all moneys that now belong to the department life insurance fund and the former Brooklyn fire department widows and orphans' relief fund; and all persons who shall have paid into the said funds and who shall continue to pay into the life insurance fund shall receive the benefits of said fund as provided in this section. There shall be deducted from the monthly salary of each member of the uniformed force, including a probationary member and from the monthly pension of retired members and from the compensation of such other employees as shall heretofore have availed themselves of this provision, until the amount of said fund shall equal the sum of twenty-five thousand dollars, the sum of one dollar monthly, which shall be received and deposited by the treasurer of the fire pension fund to the credit of the department life insurance fund in a bank or trust company to be selected by him. The treasurer shall make on oath a semi-annual report of the condition of the fund containing

a statement of all receipts and disbursements together with names of all beneficiaries and the amount paid to each, and file said report in the office of the comptroller. When the amount of the fund equal the sum of twenty-five thousand dollars, only such assessments shall be made as may be necessary to maintain the fund at the sum of twenty-five thousand dollars. On the death of a member or employee in the service of the department or pensioned or retired member who shall have availed himself of this provision there shall be paid from the fund to his widow or if there be no widow then to his legal representatives the sum of one thousand dollars. If by reason of the number of deaths, the aggregate amount of money provided to be assessed and collected prove inadequate to make the required payments, the monthly assessment may be increased to an amount not exceeding two dollars. Only members of the uniformed force shall hereafter be eligible to participate in the fund.

## ARTICLE 6.

### CONTRIBUTIONS TO EXEMPT OR VETERAN VOLUNTEER FIREMEN'S ASSOCIATIONS.

Section 740. Payments from tax on insurance agents.

741. Payments from other revenues.

742. Apportionment of contributions.

743. Report of trustees of beneficiary association.

744. Certain payments prohibited.

Section 740. Payments from tax on insurance agents. The commissioner shall pay over quarterly, after deducting the expenses of collection, from the moneys received as taxes from the agents of individuals, corporations and associations not incorporated under the laws of this state, on account of premiums received for insurance of property located in the several divisions of the city

1. In all boroughs: Forty-five per centum to the fire pension fund of the New York fire department; ten per centum to the treasurer of the firemen's association of the state of New York for the endowment and maintenance of the firemen's home at Hudson;

2. In the borough of Manhattan, until January seventeenth, nineteen hundred and seventeen and thereafter to the fire pension fund of the fire department: Forty-five per centum to "The Trustees of the Exempt Firemen's Benevolent Fund of the City of New York;"

3. In the borough of Bronx, until January seventeenth, nineteen hundred and seventeen and thereafter to the fire pension fund of the fire department: In the first ward, forty-five per centum to "The Exempt Firemen's Benevolent Fund Association of the Twenty-third and Twenty-fourth Wards of the City of New York (late town of Morrisania, in the county of Westchester) in the County of New York;" in the second ward, forty-five per centum to the "Westchester Exempt Firemen's Association of the City of New York;"

4. In the borough of Brooklyn: Twenty per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the western district of the late city of Brooklyn; thirteen and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the eastern district of the late city of Brooklyn; three and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of New Lots; two and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of Flatbush; two and one-third per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of Gravesend; two per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of New Utrecht; one and two-thirds per centum to the treasurer of the widows and orphans' fund of the late volunteer fire department of the former town of Flatlands;

5. In the borough of Richmond: Forty-five per centum to the treasurers of the exempt or veteran volunteer firemen's associations in the borough of Richmond existing therein prior to April first, nineteen hundred and six;

6. In the borough of Queens: Forty-five per centum to the treasurers of the exempt or veteran volunteer firemen's associations in the borough of Queens existing therein on January first, nineteen hundred and one.

§ 741. Payments from other revenues. From moneys collected in the boroughs of Queens and Richmond as fines, forfeitures and penalties for the violation of any law, ordinance, regulation or order relating to the protection of firemen at fires, the prevention of fires and explosions and the storage, sale and use of combustible materials, and fees for permits to sell petroleum products, there shall be paid quarterly ten per centum to the treasurer

of the firemen's association of the state of New York for the endowment and maintenance of the firemen's home at Hudson; from such moneys collected in the borough of Queens, forty-five per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and one; from such moneys collected in the borough of Richmond, forty-five per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and six.

There shall be paid annually from excise taxes belonging to the city upon the business of trafficking in liquors received on account of licenses in the boroughs of Queens and Richmond, one per centum to the treasurer of the firemen's association of the state of New York for the endowment and maintenance of the firemen's home at Hudson; from such excise taxes received on account of licenses in the borough of Queens, four and one-half per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and one; from such excise taxes received on account of licenses in the borough of Richmond, four and one-half per centum to the treasurers of the exempt or veteran volunteer firemen's associations existing in said borough on the first day of January, nineteen hundred and six.

There shall be paid to the various treasurers of the volunteer fire department benevolent funds of the former city of Brooklyn and town of New Lots such amount as may be annually appropriated therefor, which shall not exceed the sum of five thousand dollars; and to the treasurers of the volunteer fire department benevolent funds of the former volunteer fire departments of the former towns of Flatbush, New Utrecht, Gravesend and Flatlands such amount as shall be annually appropriated therefor, which shall not exceed the sum of five thousand dollars and shall be paid in equal amounts to said funds.

§ 742. Apportionment of contributions. Except as in this article otherwise expressly provided, moneys directed to be paid to the treasurers of exempt or veteran volunteer firemen's associations in a borough shall be apportioned by the comptroller among such associations in proportion to the number of exempt and of honorably discharged volunteer firemen who shall be actual bona fide



members of such associations on the first day of January next preceding such apportionment.

§ 743. Report of trustees of beneficiary association. The trustees of each association to which moneys are paid under the provisions of this article shall annually report on oath to the fire commissioner and comptroller, in detail, as to the expenditure of said moneys. Upon failure to report, the fire commissioner or comptroller may withhold payment of such moneys from such association and pay the same to the fire pension fund of the New York fire department.

§ 744. Certain payments prohibited. No trustee, officer or agent of an exempt or veteran volunteer firemen's association shall grant or give to any beneficiary or other person any greater sum than shall have been determined by the board of trustees of such association after due investigation of the circumstances in each case; and all payments of pensions or donations shall be made by the treasurer upon order of the trustees, and for all such payments the treasurer shall take and keep on file receipts from the beneficiaries.

## CHAPTER XVII.

### HEALTH DEPARTMENT.

Article 1. Organization, administration, authority, duties and powers of department. (§§ 750-764.)

2. Enforcement of orders and ordinances. (§§ 770-780.)

3. Pension fund. (§§ 785-790.)

### ARTICLE 1.

#### ORGANIZATION, ADMINISTRATION, AUTHORITY, DUTIES AND POWERS OF DEPARTMENT.

Section 750. The board of health.

751. Jurisdiction.

752. Discretionary powers.

753. Hospitals.

754. Sanitary code.

755. Vaccine virus; sera.

756. Duty in case of pestilence.

757. Quarantine.

758. Records of vital statistics.

759. Registration of births not previously recorded.

**Section 760. Transcripts of records; fees.**

761. Coroners' returns.

762. Health squad.

763. Bureaus and offices.

764. Certain officers to be peace officers.

**Section 750. The board of health.** The head of the department shall be the board of health which shall consist of the health commissioner, who shall be the president of the board, the police commissioner and the tenement-house commissioner. The health officer of the port of New York may be present at the meetings of the board and shall have the right to speak on any question but not the right to vote. The board shall appoint a secretary of the department and may appoint a sanitary superintendent and a registrar of records.

§ 751. Jurisdiction. The department shall be the local board of health. The powers and duties of the department shall extend over the city and throughout the port of New York; but this act shall not be construed to limit or affect the powers of the health officer of the port. The department shall

1. Enforce the public health law;
2. Abate all nuisances detrimental to public health or dangerous to human life, with or without action at law or in equity;
3. Enforce all laws of the state relative to the preservation, care, promotion or protection of life and health;
4. Cause the vacation of any building unfit for human habitation or dangerous to life or health;
5. Enforce all laws relative to the use or sale of poisonous, unwholesome, deleterious, impure, misbranded or adulterated drugs, medicines or food; all foul or infected merchandise or articles, and all animals afflicted with disease transmissible to human beings; and condemn, seize and destroy the same;
6. Take all steps necessary for the sanitary supervision and protection of the water supply of the city and the sources thereof;
7. Use all reasonable means for ascertaining the existence and cause of disease or peril to life or health and for averting the same;
8. Send promptly all proper information in its possession to the health authorities of the state and of any division thereof requesting the same;
9. Gather such information and preserve such records of facts relating to births, marriages, deaths, disease and health as may

be useful in the discharge of its duties and as may tend to public interest and the promotion of health or the security of life;

10. Co-operate with the health officer of the port to prevent the spread of disease and to protect life and promote health;

11. Cause all or part of any cargo, matter or thing putrid or otherwise dangerous to public health to be destroyed or removed;

12. Contract for the sale and removal of offensive refuse matter and in case of emergency, with the approval of the mayor, to contract therefor for a period not exceeding thirty days without advertising and public bidding;

13. Order and enforce the repair of buildings, structures and houses, other than tenement-houses, where necessary for the public health; regulate and control all public markets and stands or stalls in and around the same so far as relates to cleanliness, ventilation and drainage;

14. Enter, examine and survey all grounds, erections, vehicles, structures, apartments, buildings and every part thereof and places as well as vessels of all kinds and all cellars, sewers, passages and excavations, and inspect the safety and sanitary condition and make plans, drawings and descriptions thereof and make and publish a report of the sanitary condition and the result of the inspection of any place, matter or thing so inspected;

15. Cause any street or passage to be fenced or otherwise inclosed if it deem the public safety to require it and adopt suitable measures for preventing all persons from going to any part of the city so inclosed;

16. Forbid all communication with a house or family infected with any contagious, infectious or pestilential disease except by physicians, nurses or messengers to carry necessary advice, medicines and provisions;

17. Regulate and license the practice of midwifery.

§ 752. Discretionary powers. Subject to the provisions of this act, the department may

1. Adopt means for preventing communication between any part of the city infected with a disease of a pestilential, infectious or contagious character and other parts of the city;

2. Grant to masters of vessels bills of health certifying to the condition of the city in respect to health;

3. Remove or cause to be removed to a proper place designated by it any person sick with a contagious, pestilential or infectious disease; and provide and pay for the use of such places and for

the support of such persons if not entitled to support from the commissioner of immigration;

4. Erect, establish, maintain and furnish in such places within or without the city as may be authorized or designated for such purposes buildings and hospitals for the observation, detention, care and treatment of persons suffering from or who shall have been exposed to contagious, infectious or pestilential diseases;

5. Take possession of and occupy for temporary hospitals any buildings in the city during the prevalence of an epidemic and pay just compensation for the property taken;

6. Cause proper care and attendance to be given to any sick person, when it appears to the department that the public health require such person to receive special medical care and attendance or that such person is so poor as to be unable to procure it for himself;

7. Make reasonable regulations concerning the publicity of any papers, files, reports, records and proceedings of the department;

8. Provide for light, ventilation and sanitary inspection and regulation of lodging-houses and the premises connected therewith;

9. Order the removal of any vessel from which, in the judgment of the department, an infectious, contagious or pestilential disease may be brought into the city or communicated to its inhabitants;

10. Add to, revise, alter or amend the sanitary code;

11. Require reports and information of such facts, at such times and in such form as it may prescribe relative to the safety of life and promotion of health from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools and from the managers, principals and officers thereof; and from all other public institutions, their officers and managers and from the proprietors, managers, lessees and occupants of all theaters and other places of public resort or amusement;

12. Determine what diseases are contagious, infectious or pestilential;

13. Employ in the bureau of sanitation a corps of physicians to vaccinate;

14. Collect and preserve pure vaccine lymph or virus and produce diphtheria antitoxin and other antitoxin and protective sera and dispose of the same;

15. Order a borough president to repair and construct drains;

16. Order an autopsy upon the body of a person dying from a disease suspected to be infectious, contagious or pestilential.

§ 753. Hospitals. The department shall have charge and control of the hospitals for contagious diseases at the foot of East Sixteenth street, borough of Manhattan, the hospital for contagious diseases at Flatbush, borough of Brooklyn, the Riverside sanitarium for tuberculosis on North Brothers island, the Otisville sanitarium for tuberculosis at Otisville and the several tuberculosis clinics without hospital provision and such other hospitals, sanatoria and clinics as may be designated by the sinking fund commission. The department shall have exclusive charge and control of all municipal hospitals for the observation and treatment of Asiatic cholera, plague, typhus fever, scarlet fever, yellow fever, measles, diphtheria and smallpox, but this shall not be construed to require the board to remove any person suffering from or who has been exposed to any of such diseases to the hospital therefor unless in its judgment such removal be necessary for the protection of the public health. With the concurrence in writing of the department or departments affected and of the sinking fund commission, after public hearing, the department may designate such hospitals established for or actually caring for persons suffering from or exposed to a contagious, infectious or pestilential disease as in its judgment should for the protection of the public health be under its exclusive charge and control; and such hospitals and their employees shall thereupon be transferred to the department of health. The department of health, with the concurrence in writing of the department or departments affected, may designate a hospital under its jurisdiction for the observation and treatment of an infectious disease other than Asiatic cholera, plague, typhus fever, scarlet fever, yellow fever, measles, diphtheria and smallpox as one which may, without danger to public health, be transferred to the jurisdiction of another department authorized to maintain public hospitals and such designation, if approved by the sinking fund commission after a public hearing, shall take effect and the hospital so designated shall thereupon be transferred to such other department. A department or hospital corporation maintaining a hospital or ward for the treatment of persons having a contagious, infectious or pestilential disease may admit to such hospital or ward any person applying for admission thereto, and certified by the physicians of the hospital to have the disease for which the hospital or ward is maintained, and such admission shall be reported immediately by the department or hospital corporation to the department of health. The discharge of such per-

son shall also be reported forthwith to the department of health. No person shall remove any person sick with infectious, contagious or pestilential disease from any vessel or other place in the city without a written permit from the department of health.

§ 754. Sanitary code. The sanitary code is continued in full force and effect subject to revision, alteration or amendment by the department; but nothing contained in it shall prohibit the storage of fertilizers, the keeping or slaughtering of fowls, cattle or other domestic animals in the rural parts of the city or the driving of such animals on the country roads therein. An amendment to the sanitary code shall not take effect until a copy thereof, certified by the secretary of the department, shall be filed with the city clerk.

§ 755. Vaccine virus; sera. The board may distribute vaccine virus and antitoxin and protective sera among the poor of the city as in its judgment the public health require and may sell the surplus. The proceeds of such sales shall be paid to the chamberlain and be kept as a separate fund and payments therefrom shall be made by the chamberlain upon the order of the board for defraying the expense of collecting and preserving pure vaccine virus, the production of antitoxin and protective sera and the distribution thereof among the poor.

§ 756. Duty in case of pestilence. In the presence of great and imminent peril to the public health by reason of pestilence the department shall, upon the consent in writing of at least two of its members and of the mayor, take such measures for the preservation of the public health in addition to those otherwise authorized by law and make such expenditures, without reference to any appropriation, as it may determine.

§ 757. Quarantine. The department may regulate communication with a house or family infected with an infectious, contagious or pestilential disease and may order to the quarantine anchorage a vessel when its condition or that of its cargo, passengers or crew is deemed to be dangerous to the public health. When an infectious disease is epidemic in a place outside of the city the department may prohibit or regulate all intercourse between such place and the city for a reasonable period, and may direct that all persons who shall come into the city contrary to the prohibitions and regulations of the board shall be apprehended and returned whence they came or be conveyed to such institution as the department may designate for detention and observation or necessary treatment.

§ 758. Records of vital statistics. The department shall keep a record of the births, marriages and deaths filed with it and the time when filed; the births shall be numbered and recorded in the order in which they are received by it; and the record of births shall state the place and date of birth, the name, sex and color of the child, the names, residence, birthplaces and ages of the parents, occupation of father and maiden name of mother, as fully as they have been received. The marriages shall be numbered and recorded in the order in which they are received by the department; and the record thereof shall state the date of marriage, name, residence of the persons, by whom married, the names and surnames of the parties, age, color, residence, birthplace and number of marriage of each; whether single or widowed, father's name and mother's maiden name and maiden name of the bride if a widow. The deaths shall be likewise numbered and recorded; and the record thereof shall state, as far as the same is reported, the date of decease, name and surname, whether single, married or widowed, age, place of birth, place of death, occupation, names and birthplaces of the parents, disease, cause of death, color and last place of residence of such deceased person.

§ 759. Registration of births not previously recorded. The births of the children of actual residents of the city which may have occurred during the temporary absence of the parents of such children from the city, and the births of children which failed of record through the neglect of the physician or other medical attendant present at such birth may be recorded in the bureau of records of the department in a special book to be kept for such purpose upon application therefor by the parents or guardians of such children. Such application shall be made to the commissioner and be accompanied by a certificate of the physician or medical attendant at such birth and personally cognizant thereof, together with the affidavit of at least two citizens certifying to their knowledge of the facts and that the physician or attendant making such certificate is a reputable person in good standing in the community in which he or she may reside. No change or alteration shall be made in any record of the department without the approval of the commissioner.

§ 760. Transcripts of records; fees. A transcript of any record may, in the discretion of the department, be given to a person or the parent or next of kin of a person whose birth, mar-

riage or death is recorded. The record of a false or fraudulent return shall be canceled upon due proof of the facts to the department. A transcript of a record of a birth, marriage or death, on application of a person whose title to real or personal property is or may be affected by such record, shall be furnished to such person, his attorney or agent. Transcripts of such records when required shall be in such form as the department may prescribe upon payment of the usual fees for copies of records. The department shall receive no fees for the duties performed under the two preceding sections.

§ 761. Coroners' returns. Coroners shall, as directed by the department, report all post-mortem inquests or viewing of dead bodies. Every coroner shall, immediately upon notification and before holding an inquest, transmit to the department written notice thereof in which shall be stated every particular then known to him as to the body, the place where it is and the reported cause of death. The department may, as soon as the coroner's jury or physician shall have viewed the dead body and an autopsy thereon shall have been made, order its immediate burial or its immediate removal from the place of death to another place for inquest.

§ 762. Health squad. The police commissioner, on the requisition of the board of health, shall detail to the health department not more than one hundred members of the police force of at least five years' service who shall be known as the "health squad" and report to and be subject to the direction of the health commissioner. The health commissioner may report to the police department for punishment a member of the health squad guilty of a breach of order or discipline or neglect of duty. The board may reject a member detailed to the squad and thereupon another member shall be detailed in his place.

§ 763. Bureaus and offices. There shall be in the department, in addition to such other bureaus and offices as may be established therein

1. A bureau of sanitation the chief officer of which shall be the sanitary superintendent who, at the time of his appointment, shall have been for at least ten years a practicing physician and for three years a resident of the city;

2. A bureau of records the chief officer of which shall be the registrar of records.

There shall be an office of each bureau in each borough, in which shall be preserved the departmental records, files, reports



and papers pertaining to the borough. Cultures brought to the office in the borough of Brooklyn by physicians practicing in the boroughs of Brooklyn and Queens shall be there examined and tested.

§ 764. Certain officers to be peace officers. The members of the board, the sanitary superintendent, the assistant sanitary superintendents and inspectors of the department shall be peace officers with respect to violations of statute, sanitary code or ordinances relating to public health.

## ARTICLE 2.

### ENFORCEMENT OF ORDERS AND ORDINANCES.

Section 770. Presumption as to proceedings; orders of the department.

771. Service of orders.

772. Sanitary code health law; penalties; actions.

773. Personal liability for expenses.

774. Suit for expenses.

775. Lien for expense of executing orders; enforcement.

776. Special revenue bonds.

777. Suits to abate nuisances.

778. Infected and uninhabitable houses.

779. Proceedings for condemnation.

780. Nuisance defined.

Section 770. Presumption as to proceedings; orders of the department. The actions, proceedings, authority and orders of the department shall be presumed to be in their nature judicial. The department may execute orders with its own officers and agents and with its own means.

§ 771. Service of orders. Service of an order of the department shall be deemed sufficient if made upon a manager, agent or person interested in or an officer charged with a duty relating to the business, property, matter or thing or the nuisance or abuse to which the order relates. If an order relate to a building or premises, used or intended to be used as a residence or lodging place or as a tenement-house, service of the order on an agent for the rental or collection of rent of such building or premises shall have the same effect and validity as if made upon the principal and upon the owners, lessees, tenants and occupants of such buildings or premises.

§ 772. Sanitary code health law; penalties; actions. The sanitary code shall be a health law. In addition to the punishment provided by the penal law any person who violates or fails to comply with any provision of a health law or disobeys an order or regulation of the department shall be liable to a penalty of not to exceed two hundred and fifty dollars to be recovered in a civil action. A civil action for the recovery of penalties shall be brought by the department in the name of the city and may be brought in any court in the city having jurisdiction to an amount as large as that demanded in the action. No fees shall be charged by any court, magistrate or clerk for the issue of any paper or process or for the performance of any duty in any such action. If judgment be rendered for the plaintiff in any amount costs shall also be recovered without reference to the amount of the recovery, provided payment shall have been demanded before suit and the defendant shall not have offered to pay an amount equal to the recovery; but in case the recovery be less than fifty dollars the amount of costs shall be ten dollars; and if no recovery be had, the city shall not be liable for costs unless the judge or justice at the conclusion of the trial certify in writing that there was not reasonable cause for bringing the action, in which case the costs shall not exceed ten dollars unless the amount claimed exceed fifty dollars. No action shall abate or right of action already accrued determine by reason of the expiration, repeal or amendment of an ordinance, a provision of the sanitary code or an ordinance or regulation of the department; nor shall any court lose jurisdiction of an action by reason of a plea that title to real estate is involved, provided the defendant be charged on any ground other than his title. As to all proofs and proceedings by the department or its agents or officers papers filed shall be deemed entered upon or in the minutes of the department.

§ 773. Personal liability for expenses. The expenses attending the execution of an order made by the department shall be a joint and several liability of the owners or part owners, lessees and occupants of the building, business, place, property or thing to which the order relates and in respect to which the expenses shall have been incurred

§ 774. Suit for expenses. One or more of the parties liable for the expenses of executing an order of the department may be made party or parties defendant to an action to recover the same; and any of the persons liable for such expenses, but not made par-

ties defendant in the action, shall be liable for contribution, according to their legal or equitable obligation.

§ 775. Lien for expense of executing orders; enforcement. The city shall have a lien for the expenses necessarily incurred by the department in the execution of an order thereof, which lien shall be upon the real property in respect to which the expenses shall have been incurred and shall have priority over all other liens or incumbrances except taxes and assessments. No such lien shall be valid until a notice containing the particulars required to be stated in a mechanic's lien and that the expenses had been incurred pursuant to an order of the department and the date of such order shall have been filed, entered and indexed in the office of the county clerk as in the case of a mechanic's lien. Such notice when filed shall have the same force and effect as a notice of mechanic's lien. All proceedings with reference to the enforcement and discharge of such lien shall be followed as provided by law for a mechanic's lien and with the same effect. Unless proceedings to discharge the lien be commenced within six months after actual notice of the filing thereof by the party against whose property a lien is filed, the filing shall as to all persons having such notice become conclusive evidence that the amount claimed in the statement is due and a lien upon the property. Such lien shall continue for a period of four years from the time of filing unless sooner discharged. If within said period proceedings be commenced to enforce the lien, it shall remain a lien until the final termination thereof.

§ 776. Special revenue bonds. The expenses in excess of appropriation therefor necessarily incurred by the department in the execution of orders which are liens upon the property affected shall be provided by the issue of special revenue bonds.

§ 777. Suits to abate nuisances. The department may maintain in the name of the city an action in the supreme court for the abatement of a nuisance. Costs collected in such action shall be paid into the general fund.

§ 778. Infected and uninhabitable houses. Whenever the sanitary superintendent or an assistant sanitary superintendent shall have reported to the department that a building or a part thereof is infected with disease, or that by reason of want of repair or defective construction, drainage, plumbing or ventilation it is dangerous to life or unfit for habitation, or that a nuisance on the premises is likely to cause sickness, or that such building prevents ventilation of other buildings or renders them unfit for habitation

or dangerous to health, or prevents the abatement of a nuisance, or causes unsanitary conditions the board may order all persons to vacate the building or a part thereof. The department shall cause such order to be affixed conspicuously in the building or part thereof and served personally on the owner, lessee, agent, occupant or person having charge thereof; if the owner, lessee or agent cannot be found in the city or does not reside therein or evades or resists service, then such order may be served by depositing a copy in the post-office, inclosed in a sealed postpaid wrapper and addressed to such owner, lessee or agent at his last known place of business or residence. Such building or part thereof shall, within ten days after the service of such order, or within such shorter time not less than twenty-four hours, as in the order specified, be vacated; but the department when it shall be satisfied that the danger has ceased or that said building has been repaired so as to be safe and habitable may revoke the order.

§ 779. Proceedings for condemnation. Whenever the department shall have ordered a building or part thereof vacated by reason of the conditions stated in the preceding section, and such conditions cannot be remedied except by the destruction of a building or part thereof the department may condemn the same and order it removed; and may institute a proceeding in the supreme court for condemnation, provided, however, that the owner may demand a survey thereof in the manner provided in case of unsafe buildings. The proceeding shall be instituted by petition. If necessity for the destruction of the building or part thereof be denied in the answer, the court shall first determine that issue. If the court decide that the destruction of the building or part thereof be necessary, it shall appoint commissioners to determine the amount of compensation to be made. Jurisdiction of and procedure in the proceeding shall be as provided in this act and by the code of ordinances for the condemnation of unsafe buildings. The commissioners shall determine the compensation to be made and the comptroller shall provide for the payment of awards and expenses of the proceeding by the issue of special revenue bonds.

§ 780. Nuisance defined. The term nuisance in this chapter shall include a nuisance as known at common law or in equity jurisprudence and whatever is dangerous to human life or limb or detrimental to health.

## ARTICLE 3.

## PENSION FUND.

- Section 785. Trustees of pension fund.  
786. Composition of pension fund.  
787. Pensions for physicians or employees.  
788. Pensions to widows or dependents.  
789. Certificate of disability.  
790. Pensions for twenty years' service.

Section 785. Trustees of pension fund. The board of health shall be the trustee of and administer and invest the department pension fund. The board shall annually choose one of its members chairman and elect a secretary. It may make necessary contracts, maintain necessary actions and proceedings and establish rules and regulations for the administration of the fund. It shall report in detail to the mayor annually in the month of January the condition of the fund as of the thirty-first day of December next preceding and the items of receipts and disbursements on account thereof. No payments shall be allowed to or made by the board as reward, gratuity or compensation for salary or services rendered to or for it.

§ 786. Composition of pension fund. The department pension fund shall consist of

1. All moneys collected from fines and penalties for violation of health laws;

2. A sum of money equal to not less than one nor more than two per centum of the monthly salary or compensation of each physician or employee as determined by the trustee which shall be deducted monthly by the comptroller and paid to the trustee. No physician or employee hereafter entering the service of the department shall be entitled to the benefit of the pension fund unless, within six months thereafter, he file with the board and the comptroller a notice of intention to take advantage thereof and consent to such deduction.

All said moneys shall, within thirty days after collection or payment, be paid over by the department, officers, clerks, magistrates and courts receiving or collecting the same to the trustee for the benefit of the pension fund.

§ 787. Pensions for physicians or employees. The trustee may grant as annual pension during his lifetime to a physician or employee in the department who shall, in the performance of duty

and without fault or misconduct on his part have become permanently disabled physically or mentally so as to be unfit to perform his duty a sum equal to one-half his annual compensation at the time of retirement.

§ 788. Pensions to widows or dependents. When a physician or employee dies in the service from disease contracted or injury sustained in the actual performance of duty without fault or misconduct, leaving a widow or dependent widowed mother, the trustee may grant to the widow or dependent widowed mother the sum of three hundred dollars annually so long as she remain a widow; and if there be no widow, but children under eighteen, then said three hundred dollars may be awarded to the children while under eighteen years of age. The term "widow" as used in this article shall not include the widow of a member who became his wife after his retirement.

§ 789. Certificate of disability. No such physician or employee shall be awarded a pension on account of physical or mental disability or disease, except upon a certificate of a board of physicians appointed by the trustee setting forth the disease or disability from which such physician or employee is suffering and the extent of the disability and whether the disability, disease or injury was incurred or sustained while in the performance of duty, which certificate shall be filed and entered upon the minutes of the board.

§ 790. Pensions for twenty years' service. A physician or employee who shall have performed duty in the department for a period of at least twenty years shall, upon his own application in writing or a certificate of a board of physicians appointed by the trustee that such physician or employee is permanently disabled so as to be unfit for duty, be retired from active service and placed upon the pension-roll and be granted an annual pension during his lifetime equal to one-half his annual compensation at the time of retirement. In determining the term of service, service in a former health department or board of health in any part of the city as now constituted shall be counted as service in the department.

## CHAPTER XVIII.

## TENEMENT HOUSE DEPARTMENT.

- Article 1. Organization of department. (§§ 800-801.)  
2. Powers and duties of department. (§§ 805-818.)  
3. Records and reports; miscellaneous provisions.  
(§§ 825-828.)

## ARTICLE 1.

## ORGANIZATION OF DEPARTMENT.

Section 800. Tenement house commissioner.

801. Bureaus.

Section 800. Tenement house commissioner. The head of the department shall be the tenement house commissioner. He shall appoint three deputies and a secretary of the department. At least two of the deputies shall have had not less than ten years' experience as architect, engineer or builder. A deputy shall be assigned to the borough of Brooklyn and shall be the executive head of the branch office therein.

§ 801. Bureaus. There shall be in the department a building bureau, an inspection bureau and a bureau of records. There shall be a branch of each bureau in the borough of Brooklyn. The building bureau shall file, record and examine plans and specifications for tenement houses hereafter altered or erected and of buildings to be altered or reconstructed for use as tenement houses. It shall inspect all such houses in the course of construction or alteration and record all violations relative thereto. The inspection bureau shall inspect all tenement houses and record all violations of the tenement house law. The bureau of records shall keep complete statistics of all tenement houses.

## ARTICLE 2.

## POWERS AND DUTIES OF DEPARTMENT.

Section 805. General powers and duties.

806. Filing and approval of plans and specifications.

807. Infected and uninhabitable houses to be vacated.

808. Orders; their execution; expense a lien.

809. Special revenue bonds.

810. Inspections of tenement houses in course of construction.

**Section 811. Inspection of tenement houses.**

812. Actions and proceedings to be brought in name of department; penalties.

813. Gratuities.

814. Right of entry.

815. Tenement house squad.

816. Other powers.

817. Nuisance defined.

818. Complaint book.

**Section 805. General powers and duties. The department shall**

1. Enforce the tenement house law;

2. Have the power of sanitary inspection of tenement houses and the premises connected therewith;

3. Require every tenement house to be equipped with fire-escapes, safety appliances and other means of escape in case of fire; prevent the incumbrance and obstruction of fire-escapes upon tenement houses; and provide for the light and ventilation of tenement houses and the premises connected therewith. No new fittings for the distribution of water in or outside of buildings shall be approved by the department except in conformity with standards, if any, established by the department of water, gas and electricity.

§ 806. Filing and approval of plans and specifications. No tenement house shall be erected or altered and no building shall be altered or reconstructed for use as a tenement house until the plans and specifications for the proposed construction or alteration shall have been filed with and approved by the department.

§ 807. Infected and uninhabitable houses to be vacated. When it shall have been certified by an inspector or officer of the department that a house used as a tenement house or any part thereof is infected with disease or that it is unfit for human habitation or dangerous to life or health by reason of want of repair or of defects in the drainage, plumbing, lighting, ventilation or the construction of the building, or by reason of a nuisance on the premises likely to cause sickness or by reason of the absence or inadequacy of fire-escapes or other means of egress or escape in case of fire, or that it is occupied before the issuance by the department of a certificate that the building conforms in all respects to the provisions of the tenement house law the department may order all persons therein to vacate such house or part thereof



within not less than twenty-four hours for the reasons mentioned in the order. If such order be not complied with, the department may cause the house or part thereof to be vacated. The department, when satisfied that the danger has ceased or that the house is fit for human habitation, may revoke such order or it may extend the time for compliance.

§ 808. Orders; their execution; expense a lien. When a tenement house, or a building, structure, excavation, business, trade, matter or thing in or about a tenement house or the lot on which it is situated or the plumbing, sewerage, drainage, light or ventilation thereof is, in the opinion of the department, in condition or effect dangerous or detrimental to life or health, the department may declare that the same, to the extent it may specify, is a public nuisance and may order the same to be removed, abated, suspended, altered, improved or purified as specified in the order. The department may order or cause any tenement house or part thereof or any excavation, building, structure, sewer, plumbing, pipe, passage, premises, ground, matter or thing in or about a tenement house or the lot on which it is situated to be purified, cleansed, disinfected, removed, altered, repaired or improved. An order of the department shall be served in the manner prescribed in the tenement house law. If an order of the department be not complied with or so far complied with as the department may regard as reasonable within such time as the department may designate, it may be executed by the department through its officers, agents, employees or contractors. The city shall have a lien for the expenses necessarily incurred by the department in the execution of an order thereof, which lien shall be upon the real property in respect to which the expenses shall have been incurred. Such lien shall become effective, continue and be enforced in the manner and by the proceedings provided for liens for expenses of executing orders of the health department. The department may maintain an action or proceeding in the supreme court for the abatement of a nuisance or to enforce the provisions of the tenement house law or of this chapter. Neither the department nor any officer or employee thereof nor the city shall be liable for costs in such action or proceeding. Every person who shall violate or aid or abet the violation of an order of the department or obstruct its execution shall be guilty of a misdemeanor and in addition to any other punishment provided therefor be subject to a civil penalty of two hundred and fifty dollars. The department may in an action or proceeding or after is-

suings any order or notice affecting real property file a notice of the pendency of the action or proceeding in the office of the county clerk of the county in which the real property affected is situated. Such notice of pendency shall have the force and effect of a notice of the pendency of an action provided for in the civil code.

§ 809. Special revenue bonds. The expenses, in excess of appropriation therefor, necessarily incurred by the department in the execution of orders and which are liens upon the property affected shall be provided by the issue of special revenue bonds.

§ 810. Inspections of tenement houses in course of construction. The commissioner shall cause an inspection and examination to be made of all tenement houses in the course of construction or alteration, also of all buildings in course of alteration or reconstruction for use as tenement houses for the purpose of ascertaining whether such tenement houses or buildings are being constructed, altered or reconstructed in conformity with law and ordinance and the plans and specifications filed with and approved by the department.

§ 811. Inspection of tenement houses. The commissioner shall cause an inspection of every tenement house in which the average rental of apartments is less than twenty-five dollars per month to be made at least once in each month. Such inspections shall include examination of cellars, halls, water-closets, privies, plumbing, yards, areas, fire-escapes, roofs, shafts, courts, tanks and all other parts of such tenement house and the premises connected therewith.

§ 812. Action and proceedings to be brought in name of department; penalties. All actions and proceedings for the enforcement of the tenement house law or the provisions of this chapter or ordinances shall be brought in the name of the department by the assistant corporation counsel assigned to the department and all penalties recovered shall be paid to him and accounted and paid over to the commissioner.

§ 813. Gratuities. An officer or employee of the department shall not, directly or indirectly, in addition to his regular salary or compensation, receive for his own benefit any present, fee, gift or emolument for services rendered by himself or by the department or an officer or employee thereof.

§ 814. Right of entry. The commissioner, his subordinates or a person designated by the commissioner in writing shall have the right of entry to all premises, grounds, erections, structures, apartments, buildings and every part thereof and to inspect and survey the same and make plans and descriptions thereof.

§ 815. Tenement house squad. The police commissioner on the requisition of the tenement house commissioner shall detail to the tenement house department not more than fifty members of the police force of at least five years' service, who shall be known as the tenement house squad and report to and be subject to the direction of the tenement house commissioner. The tenement house commissioner may report to the police department for punishment a member of the squad guilty of breach of order or discipline or of neglect of duty. The tenement house commissioner may reject a member detailed to the squad and thereupon another member shall be detailed in his place.

§ 816. Other powers. The department in respect to tenement houses shall in addition to its other powers and remedies have the same powers and remedies as the health department in relation to the repair of buildings; dangerous and improperly constructed buildings; assistance and co-operation of the police department; service of orders; penalties; legal proceedings and punishment for disobedience of orders and ordinances; reimbursement and lien of expenses and enforcement of such liens; nuisances; and actions for abatement and removal of nuisances.

§ 817. Nuisance defined. The term nuisance in this chapter shall include nuisance as known at common law or in equity jurisprudence and whatever is dangerous to human life or limb or detrimental to health.

§ 818. Complaint book. There shall be kept in the department a general complaint book in which a complaint in reference to a tenement house may be entered by any person, who shall also enter his name and address.

### ARTICLE 3.

#### RECORDS AND REPORTS; MISCELLANEOUS PROVISIONS.

Section 825. Records in department.

826. Annual report.

827. Delegation of powers; variation from statute or ordinance; appeals; notice to tax department.

828. Tenement house law not affected.

Section 825. Records in department. The commissioner shall keep a complete record of tenement houses by card catalogue, including

1. A diagram of each tenement house showing the shape of the building, its width and depth, also the measurements of the unoccupied area, shafts, courts, yards and other open spaces. Such diagram shall include a plan of the second or typical floor of the building, showing the sizes and arrangement of the rooms and all doors, stairs, windows, halls and partitions;

2. A statement of when the building was erected.

§ 826. Annual report. The commissioner shall, prior to the first day of March, make an annual report to the mayor of the operations of the department for the year ending on the preceding thirty-first day of December. A copy shall be delivered to the supervisor of the City Record and be published in full in pamphlet form.

§ 827. Delegation of powers; variation from statute or ordinance; appeals; notice to tax department. The department may in writing delegate to another department, with the consent of such department, any of its powers or duties, except such as are vested in or imposed upon it by the tenement house law, and may in writing revoke such delegation. Except as to matters prescribed by the tenement house law, the commissioner may permit the variation from the strict letter of a statute, ordinance, rule or regulation relating to the construction, alteration, plumbing, drainage or removal of a tenement house as provided in this act for a superintendent of buildings. Except as to matters prescribed by the tenement house law, an appeal may be taken to the board of examiners from a decision of the commissioner, under the same circumstances, in the same form and manner and with the same effect as prescribed in this act for an appeal from a decision of a superintendent of buildings. When a permit shall have been granted for the construction, alteration or removal of a tenement house the department shall notify the tax department within ten days of the granting of the permit designating the lot or block or tax number upon the tax map of the premises and the estimated cost of the improvement.

§ 828. Tenement house law not affected. This act shall not affect the tenement house law.

## CHAPTER XIX.

## CHARITIES DEPARTMENT.

Article 1. Organization of department; powers and duties.  
(§§ 840-851.)

2. Ambulance service. (§§ 865-867.)

## ARTICLE 1.

## ORGANIZATION OF DEPARTMENT; POWERS AND DUTIES.

Section 840. Commissioner; subordinates.

841. Jurisdiction.

842. Powers of the commissioner as to children.

843. Commitment and discharge of children.

844. Visitation of institutions.

845. Classification, employment and instruction of inmates.

846. Records.

847. Relief of the blind.

848. Relatives to support paupers.

849. Hours of labor; discipline.

850. Day nurseries.

851. Disposition of dead bodies.

Section 840. Commissioner; subordinates. The head of the department shall be the commissioner of charities. He shall appoint three deputies and a secretary of the department. He shall be the overseer of the poor of the city.

§ 841. Jurisdiction. The commissioner, in addition to the jurisdiction vested in him by any other statute, shall have charge and control of

1. The City Hospital, Neurological Hospital, Metropolitan Hospital and Home for the Aged and Infirm on Blackwell's island, borough of Manhattan; New York City Children's Hospitals and schools on Randall's island, borough of Manhattan; Kings County Hospital, Coney Island Hospital, Cumberland Street Hospital, Bradford Street Hospital and New York City Home for the Aged and Infirm, borough of Brooklyn; Sea View Hospital and New York City Farm Colony, borough of Richmond; and such other hospitals or institutions as are now under the jurisdiction of the department of public charities or which may be assigned to the department by the sinking fund commission;

2. All city institutions for the permanent care and maintenance of poor persons who have no one legally bound to provide for their support, including aged infirm adults and orphan or homeless children;

3. All municipal lodging-houses, day nurseries, settlement houses and public institutions for the temporary relief of worthy able-bodied or convalescent adults, including persons recently discharged from prisons and seeking employment;

4. The distribution of sums appropriated for the destitute blind;

5. The investigation of the condition of beggars, mendicants and solicitors of alms and the removal from the city of persons liable to become public charges;

6. The distribution of all moneys received for and payable to or on account of abandoned wives, children or dependent relatives;

7. Public burial places and interments therein of deceased paupers, except the potter's field or city cemetery upon Hart's island;

8. The cremation of corpses and burial of ashes of deceased paupers, when lawful provision shall have been made therefor;

9. All public morgues;

10. All ambulance service in the city except such as shall be maintained by the health department.

§ 842. Powers of the commissioner as to children. The commissioner shall have power to commit, indenture, place out, discharge or transfer any child in his custody or who may have been placed by him in an institution as a public charge whenever in his judgment it shall be for the best interests of such child, to revoke and cancel any such indenture or agreement and to contract with an institution or family for the maintenance of any such child. In placing out or indenturing children the commissioner may assign a subordinate to make the necessary investigations and may employ an incorporated charitable institution or society and reimburse it for its expenses, other than salaries actually incurred in the placing out, supervision and transfer of children. Any such institution to which a child shall have been committed may place such child in a family or bind out such child by indenture or consent to his adoption. In indenturing, placing out, transferring or committing any such child the commissioner or an institution or society employed by him shall, when practicable, indenture or place out such child with an individual of the

like religious faith as the parents of such child or transfer or commit such child to an institution governed by persons of the religious faith of the parents of such child. He shall maintain records and histories of all children committed to institutions. On behalf of the city he shall examine and approve bills from all private institutions and hospitals for such inmates as he shall consider proper charges, and for such purpose may examine the books of record and accounts upon which are based the bills rendered. The bills when approved by the commissioner shall be paid from the amounts appropriated for private charitable institutions. The word institution, whenever used in this section, shall include any charitable corporation one of whose objects is the care of children or the placing of children in families.

§ 843. Commitment and discharge of children. The commissioner shall not commit children to an institution unless the state board of charities shall have certified that such institution has complied with the rules and regulations established by the board pursuant to section fourteen of article eight of the constitution, and he shall not commit a child to an institution outside of the city unless such institution shall have been certified by the state board of charities to be safe and suitable for such purpose. The term of commitment of a child shall be until the age of sixteen years or until indentured, placed out as an apprentice or given over in adoption or returned to its parents, relatives or guardians or otherwise discharged. A child may be committed to an institution caring for inmates of like religious belief and giving manual or industrial training until the age of eighteen years. Each institution to which any such child shall have been committed shall, when requested by the commissioner, file with him a list of all such children received by or discharged from said institution during a stated period, which list shall contain the names and residence of the parents and guardians of the children as far as known. Every such institution shall keep a book in which it shall cause to be entered the name and address of each parent, relative or other person visiting an inmate of such institution who is a public charge upon the city in whole or in part and the date of each such visit.

§ 844. Visitation of institutions. The commissioner shall, in so far as the interests of the city and the welfare of the persons under his charge may require, have the power of visitation of all charitable, eleemosynary, correctional and reformatory

institutions wholly or partly under private control to or for which any moneys of the city shall have been appropriated or paid and such institutions shall be subject to no other supervision in behalf of the city. If the commissioner decide, after reasonable notice to an institution and a hearing, that the care or treatment of an inmate thereof is not a proper charge upon the city and a copy of such decision containing the reasons therefor shall have been given to the institution all right to compensation from the city on account of such inmate shall cease. The decision of the commissioner in any such case may be reviewed on certiorari. The commitment or acceptance by the commissioner of a person as a proper charge shall be binding upon the city.

§ 845. Classification, employment and instruction of inmates. The commissioner shall cause all inmates of public institutions under his charge to be classified, so far as practicable, upon the basis of previous character and conduct, but such inmates may be transferred or reclassified in accordance with their conduct in the institution. Every inmate of an institution of the department whose age and health will permit shall be employed in such mechanical or other labor as shall be found to suit his capacity. In an institution to which children are committed there shall be maintained such schools and classes of instruction as may be required by law or deemed necessary by the commissioner and all such schools or classes shall be subject to the rules and regulations of the department and the general jurisdiction of the commissioner.

§ 846. Records. The commissioner shall keep records of all persons under his care or custody and of the disposition made of such persons with full particulars as to the name, age, sex, color and nativity of each and in case of minors the names and residence of parents and their religious faith, so far as ascertained, and the religious faith and residence of the persons or families with whom or of the institution in which they are placed together with copies of all instruments of indenture or agreement executed by the commissioner. The commissioner shall also keep records of all persons who are inmates of private institutions who are city charges.

§ 847. Relief of the blind. The commissioner shall distribute the moneys appropriated for the destitute blind in uniform sums, not exceeding one hundred dollars, to destitute adult blind persons not inmates of institutions maintained in whole or in part by the



city and who shall be citizens and who shall have been residents of the city for at least two years.

§ 848. Relatives to support paupers. The commissioner shall inquire into the circumstances of every person admitted to an institution under his charge and investigate the financial condition of the persons liable for the support of such person. If the commissioner ascertain that a poor person or an inmate of an institution of the department or a person supported in whole or in part at the expense of the city have means of support or a grandparent, parent, child or grandchild who is legally bound to and has the means to provide for his support, the commissioner shall proceed to collect from such poor person or such relatives payment for his support.

§ 849. Hours of labor; discipline. The hours of labor required of a pauper or other person committed to or placed under the charge of the commissioner shall be fixed by the commissioner. The commissioner may make such rules and regulations as may be necessary for the enforcement of discipline among the inmates of institutions of the department.

§ 850. Day nurseries. The department may establish day nurseries and provide for the free admission thereto of children under ten years of age.

§ 851. Disposition of dead bodies. In the case of the death of an inmate of an institution of the department, unless the body be claimed or removed by the relatives or friends of the deceased within twelve hours after the mailing of notice of death to the known addresses of such relatives or friends, it shall be removed to a public morgue within the borough wherein the death occurs to be preserved and held subject to the rules and regulations of the department or in case of a homicide the order of the coroner having jurisdiction of inquest as to the cause of such death. The commissioner shall cause any unclaimed dead body to be removed from an institution of the correction department for burial in a public cemetery within twenty-four hours after the receipt of an official request for such removal.

## ARTICLE 2.

### AMBULANCE SERVICE.

Section 865. Ambulance service.

866. Additional ambulance service.

867. Board of ambulance service abolished.

Section 865. Ambulance service. The department shall

1. Exercise general control over and establish rules and regulations governing all ambulance service, except such as shall be within the jurisdiction of the health department;

2. Establish and alter ambulance districts;

3. Contract in writing with any hospital corporation for an ambulance service by it within a defined district;

4. Provide for the reception of all calls for ambulance service from any locality in the city, notify the hospital maintaining an ambulance service in the district from which the call is received and, in case the hospital has no available ambulance, notify the nearest hospital having an ambulance available. The department shall keep a record of all such calls and assignments.

§ 866. Additional ambulance service. The department shall establish and maintain an ambulance service in any district which in the judgment of the commissioner is inadequately provided with ambulance service and shall maintain an ambulance therein. Subject to the general control of the department, the department of hospitals may maintain an ambulance service in connection with any hospital under the jurisdiction of the department of hospitals.

§ 867. Board of ambulance service abolished. The board of ambulance service is hereby abolished and is superseded by the charities department which shall be its successor.

## CHAPTER XX.

### DEPARTMENT OF CORRECTION.

Section 880. Commissioner; subordinates.

881. Jurisdiction.

882. Matrons or female orderlies.

883. Transfer of prisoners; vacation of Blackwell's island.

884. Segregation and instruction of prisoners.

885. Prisoners may be assigned for work in charities department.

886. Collection of fines.

887. Records of prisoners.

888. Punishment.

889. Common jails.

890. Jail limits.

Section 880. Commissioner; subordinates. The head of the department shall be the commissioner of correction and he shall appoint a deputy and a secretary of the department.

§ 881. Jurisdiction. Except as otherwise provided in this act, the department shall have charge and control of

1. All city prisons and correctional institutions;
2. All persons lawfully committed or remanded to an institution of the department and of their employment;
3. Hart's island, including the city cemetery or potter's field, Riker's island and such portions of Blackwell's island as are occupied by the institutions of the department.

§ 882. Matrons or female orderlies. The commissioner shall cause at least one matron or female orderly to be constantly on duty in any institution during the detention therein of a female prisoner. No male officer of the department shall search a female prisoner or a female visiting an institution. No male shall be admitted to any portion of an institution occupied by female prisoners, unless accompanied by a matron or female orderly.

§ 883. Transfer of prisoners; vacation of Blackwell's island. The commissioner may transfer a person from one institution to another under his control. The commissioner shall as rapidly as practicable cause to be removed to Riker's island and to Hart's island the inmates of the workhouse and penitentiary on Blackwell's island, and in the meantime may direct removals to other places in the city provided for their accommodation. When any part of Blackwell's island shall have been vacated by the department control and use thereof shall vest in the charities department.

§ 884. Segregation and instruction of prisoners. The commissioner shall immediately upon their commitment cause all convicted persons in his charge and control to be classified. He shall segregate the youthful less hardened offenders. One or more of the penal institutions of the department shall be set apart and equipped for the custody, education and manual training of males under the age of twenty-one years, and there shall be established and maintained in the New York city penitentiary and the city workhouse schools or classes for instruction of prisoners.

§ 885. Prisoners may be assigned for work in charities department. Upon the request of the head of the charities department, the commissioner of correction may order a prisoner in his charge to perform service in and about the institutions of the charities

department on Blackwell's island and Randall's island, under the supervision of a prison officer.

§ 886. Collection of fines. The commissioner or a subordinate duly authorized may receive fines imposed upon prisoners in his custody. Fines so received shall be paid to the chamberlain and accounted for to the comptroller.

§ 887. Records of prisoners. The commissioner shall keep and preserve records of all prisoners committed or remanded to his care and custody, of the disposal of each with full particulars as to the name, age, sex, color, nativity and religious faith and a statement of the cause and length of detention of each.

§ 888. Punishment. A prisoner shall not be punished except by solitary confinement and short allowance of rations. During punishment each prisoner shall be daily examined by a physician and a report of such examination shall be made to the officer in charge of the institution and to the commissioner.

§ 889. Common jails. The sinking fund commission may designate a building in each county as a common jail. Until other designation be made the city prison in the borough of Brooklyn, formerly known as the Raymond street jail and the prisons formerly known as county jails in the boroughs of Queens and Richmond shall be common jails or lawful places for the detention of persons lawfully committed within the counties of Kings, Queens and Richmond, respectively.

§ 890. Jail limits. The jail limits of a county shall be the territory comprising such county.

## CHAPTER XXI.

### DEPARTMENT OF HOSPITALS.

Article 1. Organization of department. (§§ 905-912.)

2. Board of inebriety. (§§ 920-926.)

### ARTICLE 1.

#### ORGANIZATION OF DEPARTMENT.

Section 905. Board of trustees; appointment and removal.

906. Jurisdiction.

907. Superintendent of hospitals.

908. Medical and surgical board.

909. Treatment of nonresidents.

910. Death of inmates.

911. Training school for nurses.

912. Temporary care of prisoners and insane persons.

Section 905. Board of trustees; appointment and removal. The head of the department shall be the board of trustees of the Bellevue and Allied Hospitals, of which the commissioner of charities shall be a member exofficio. The board shall appoint a secretary of the department and from its members choose a president. The present appointive members of the board shall continue as members of the board during the terms for which they were respectively appointed. The term of each appointive member shall be seven years. The members of the board shall serve without compensation, except that they shall be entitled to reimbursement for expenses incurred in the performance of their duties as such members. An appointive member of the board may be removed by the mayor for cause, after notice and an opportunity to be heard. Members of the board shall be appointed by the mayor as follows: At least twenty days before making an appointment the mayor shall call upon the president or other executive head of the New York Association for Improving the Condition of the Poor, the United Hebrew Societies of the City of New York, the Particular Councils of New York and Brooklyn of the Society of Saint Vincent de Paul and the Brooklyn bureau of charities to each present within ten days a list of not less than twice the number of persons to be appointed and appointments may be made from such list.

§ 906. Jurisdiction. The department shall have charge and control of Bellevue hospital, Gouverneur hospital, Harlem hospital, Fordham hospital and such other hospitals as may be assigned to the department by the sinking fund commission.

§ 907. Superintendent of hospitals. The mayor shall appoint a superintendent of hospitals who shall be the executive officer of the department. Subject to the jurisdiction of the board he shall have general superintendence, direction and control of the property and affairs of the department. He shall recommend to the board for appointment all officers and employees except members of the medical and surgical staffs.

§ 908. Medical and surgical board. The board shall appoint a medical and surgical board for each hospital within the jurisdiction of the department to consist of such number of attending and consulting physicians and surgeons as it determine. The medical and surgical board shall appoint medical and surgical house officers for each hospital who shall serve without compensation.

§ 909. Treatment of nonresidents. The department may receive for treatment and treat in the hospitals within its jurisdiction persons who do not reside within the city provided that such persons pay such sum for board and attendance as the department may fix and that such persons be not received to the exclusion of residents of the city. The department may also receive for treatment and treat in any such hospital any person able to pay, in whole or in part, the cost of his care and maintenance and shall collect such cost and pay the same to the chamberlain.

§ 910. Death of inmates. In the case of the death of an inmate of a hospital under the jurisdiction of the department, unless the body be claimed or removed by relatives or friends of the deceased within twelve hours after the mailing of notice of death to the known addresses of relatives or friends, it shall be removed to a public morgue within the borough wherein the death occurs to be preserved and held subject to the rules and regulations of the charities department or, in the case of a homicide, the order of the coroner having jurisdiction of inquest as to the cause of such death.

§ 911. Training school for nurses. The department shall establish, maintain and conduct such training schools for nurses as may be requisite for the proper administration of the hospitals under the jurisdiction of the department and shall provide suitable courses of instruction, a sufficient number of instructors and adequate equipment. The department may, upon the recommendation of the professors and instructors of a training school, grant certificates of proficiency to its graduates. Subject to the approval of the mayor the department may enter into a contract or contracts with the Bellevue training school for nurses for the occupation and use of any building or buildings as a training school for nurses.

§ 912. Temporary care of prisoners and insane persons. The city shall provide and maintain under the charge of the department suitable places for the examination and observation of persons alleged to be insane and for the detention and treatment of prisoners awaiting arraignment, trial or sentence who are seriously injured or dangerously ill. For this purpose properly equipped prison wards shall be established in connection with a general hospital under the jurisdiction of the department, which wards shall be under constant police surveillance.

## ARTICLE 2.

## BOARD OF INEBRIETY.

## Section 920. Composition of board; appointment and removal.

921. Nomination of members of board.

922. Organization of board; officers.

923. Hospital and industrial colony.

924. Arrests for public intoxication.

925. Commitments.

926. Parole; release from supervision.

Section 920. Composition of board; appointment and removal. The board of inebriety as now constituted is continued. It shall be composed of the commissioner of charities, the commissioner of correction and five persons appointed by the mayor. Two of the appointive members of the board shall be physicians. The terms of office of the successors to the present members of the board shall be five years. The appointive members may be removed by the mayor for cause after notice and opportunity to be heard. The members of the board shall serve without compensation. Any vacancy in the office of an appointive member of the board shall be filled within thirty days after its occurrence by appointment by the mayor. If a vacancy occur, otherwise than by expiration of term, the appointment shall be for the unexpired term.

§ 921. Nomination of members of board. At least twenty days before making an appointment the mayor shall call upon the president or other executive head of the New York Association for Improving the Condition of the Poor, the United Hebrew Charities of the City of New York, the Particular Councils of New York and Brooklyn of the Society of Saint Vincent de Paul and the Brooklyn Bureau of Charities to present in behalf of each within ten days a list of not less than twice the number of persons to be appointed. The presidents or executive heads of two or more of such organizations may present a joint list.

§ 922. Organization of board; officers. The board shall annually organize. It shall elect a chairman from its number and shall appoint a secretary who shall be its chief executive officer. The board shall have a central office in the borough of Manhattan for the boroughs of Manhattan and Bronx and a branch office in the borough of Brooklyn for the boroughs of Brooklyn, Queens and Richmond. Each of such offices shall be open at all times, Sundays and holidays included.

§ 923. Hospital and industrial colony. The board may, with the consent of the board of estimate, acquire by purchase or condemnation a suitable site within or without the city and establish and maintain thereon a hospital and industrial colony for the care and treatment of inebriates. If it be located without the city the board may establish a reception hospital within the city.

§ 924. Arrests for public intoxication. After the board shall have certified in writing to the mayor that the hospital and industrial colony is ready to receive inmates it shall keep at each office a record of males arrested for public intoxication within the boroughs of which such office has jurisdiction. When a male person shall have been arrested for public intoxication the person in charge of the station house to which he shall have been taken shall forthwith report to the office of the board for the borough in which the arrest occur the name and address of the person arrested. The board shall thereupon cause an investigation to be made concerning the persons dependent for support upon the person so arrested, his place of employment and the number of times he has been previously arrested for public intoxication. If it appear that such person has not been arrested for public intoxication during twelve months next preceding, the board shall inform him that he may make a written request to the court having jurisdiction for his immediate release. Such request shall state the name and address of the person arrested, the persons dependent upon him for support, his place of employment and that he has not been arrested for public intoxication within twelve months next preceding. If such request be signed the board shall inform the officer in charge of the arrested person and such officer shall forthwith release him. The board shall send such request to the court having jurisdiction, together with a report of the investigation made by the board. Such report shall contain a statement of the sources of the information contained therein. If the board ascertain that the person arrested for public intoxication has been arrested within the twelve months next preceding it shall report the result of its investigation to the court having jurisdiction of the case.

§ 925. Commitments. After the board shall have certified in writing to the mayor that the hospital and industrial colony is ready to receive inmates a male resident who is adjudged by a court of record to be an inebriate may, upon his own application or upon the petition of a relative or of the commissioner of charities, the commissioner of hospitals and also upon the certificate



of two medical examiners in lunacy be committed by such court to the board for not less than one year nor more than three years. The provisions of law relating to the commitment of insane persons shall, so far as practicable, apply to the commitment of persons as inebriates under this section. An inebriate is a person who is unable to properly conduct himself or his affairs or is dangerous to himself or others by reason of habits of periodical, frequent or constant drunkenness induced either by the use of alcoholic or other liquors or by opium, morphine or other intoxicating or narcotic or stupefying substances. The board shall collect money for the maintenance of any person committed to it who is able to pay in whole or in part therefor at a rate not exceeding the per capita per diem expense of maintaining patients in its hospital. No person, without the written order of an authorized representative of the board, shall bring or cause to be brought any intoxicating liquor or narcotic drug upon premises under the control of the board or, without the written order of a physician attached to the hospital, furnish any patient intoxicating liquor or narcotic drug.

§ 926. Parole; release from supervision. The board may parole a person committed to it, but such person shall remain under the supervision of the board until the expiration of the maximum term for which he was committed, unless sooner released from supervision by the board. A person violating the terms of his parole may be arrested on the warrant of the board and may be returned to its custody or taken before the court which committed him. The warrant may be executed by any subordinate of the board designated by it. The board may apply to the court which committed a person to it to relieve the board from his care and custody. Such application shall set forth the facts tending to show that such person is unsuitable for further treatment by the board or under its supervision. The court may thereupon relieve such board from further custody and care of such person and may at the same time make such disposition of him as is authorized by law.

## CHAPTER XXII.

## DEPARTMENT OF DOCKS AND FERRIES.

## Article 1. General provisions. (§§ 940-949.)

2. Docks. (§§ 955-969.)

3. Ferries (§§ 980-984.)

## ARTICLE 1.

## GENERAL PROVISIONS.

## Section 940. Commissioner of docks; subordinates.

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Section 940. Commissioner of docks; subordinates. The head of the department shall be the commissioner of docks. He shall appoint two deputies and a secretary of the department and may appoint dockmasters. No person shall be eligible to appointment as dockmaster who shall be over the age of thirty-five years at the time of the filing of his application for civil service examination.

§ 941. Definitions. Wherever used in this chapter

1. "Bulkhead line" means the line beyond which it is unlawful to fill in with solid material in the waters of the city, except in the construction of piers;

2. "Pierhead line" means the limiting line for piers outshore of which it is unlawful to build any permanent pier structure;

3. "Marginal wharf" means the area extending inshore from the bulkhead line shown on any plan for the improvement of the water front adopted pursuant to law and constructed in accordance with such plan

(a) Designated as "marginal street, wharf or place and approaches thereto" or,

(b) Authorized by law to be used for the deposit or transfer of goods and merchandise upon, over or under the same and for the construction of warehouses;

4. "Vessel" means every description of water craft or other artificial contrivance used or capable of being used as a means of transportation on water;

§ 942. Jurisdiction. The department shall have power, charge and control

1. Over all water front and ferry property owned or possessed by the city and not within the jurisdiction of another department and of regulating, developing and improving the same;

2. Of repairing, building, rebuilding, maintaining, altering, strengthening and protecting such water front property and of dredging and deepening in and about the same;

3. Of fixing bulkhead and pierhead lines within the limits established by law and where no such limits shall have been established;

4. Of fixing the distance between piers, of fixing the line of solid filling and of prescribing the method and character of construction of all water front property;

5. Of regulating all water front property not owned or possessed by the city;

6. Of completing, altering and amending the plans for the water front heretofore adopted and filed pursuant to law and of adopting, altering and amending new plans for the improvement of the water front including ferries;

7. Of regulating, maintaining, opening, widening, constructing or closing marginal wharves in accordance with plans adopted or altered or amended pursuant to law;

8. Of establishing, maintaining and operating ferries and of entering into agreements respecting the same;

9. Of the removal of abandoned, stranded, sunken or wrecked vessels or other obstructions on property within the jurisdiction of the department;

10. Of collecting revenues derived from water front property belonging to the city;

11. Of acquiring water front property, subject to the powers of the board of estimate;

12. Of making all surveys, soundings and other examinations of water front property owned by the state, city and private parties to ascertain the capacity and requirements thereof for commercial and other uses; and maps and plans now on file or hereafter made and filed in the department shall correctly show the depth of water, condition of bottom and all other necessary details;

13. Of fixing, determining and establishing by agreement with the upland owner the line of high water in front of the property of such upland owner upon a straight line or lines.

§ 943. Plans for water front. Water front property shall be permanently improved only in accordance with plans therefor adopted, altered or amended by the commissioner and approved by the sinking fund commission and filed in the department. Plans for water front improvement shall not be required to provide for marginal wharf.

§ 944. Water front improvements by private owners. The commissioner may license and permit private owners of water front property at their own expense to improve such property in accordance with plans already adopted or hereafter adopted and under the supervision of or by the commissioner, upon such terms and conditions relating to reimbursement and future rights as may be agreed upon.

§ 945. Public hearings on leases and plans. Resolutions of the sinking fund commission (a) adopting, approving or certifying plans for improvement of water front property, (b) approving leases of water front property or ferry franchises, and (c) contracts for the furnishing of ferry service shall be adopted only after a public hearing, notice of which shall have been published in the City Record for six consecutive days not less than seven nor more than thirty days before the hearing.

§ 946. Agreement with riparian owners. The commissioner, subject to the approval of the sinking fund commission, may agree with an upland owner upon an adjusted division by a straight line or lines between points on the natural shore and sell and convey to the upland owner lands under water inside of such adjusted division line or lines; and in case such lands be partly inshore and partly outshore of such division line or lines exchange lands under water inshore of such adjusted division line or lines for the lands outside thereof.

§ 947. Functions of commissioner subject to general control of sinking fund commission. The powers of the commissioner relative to the establishment of bulkhead and pierhead lines and the assignment, designation and reservation of water front property shall be exercised only with the approval of the sinking fund commission.

§ 948. Ordinances, rules and regulations. All ordinances, rules and regulations of the department, except such as relate exclusively to its organization or to the duties or discipline of its

officers and employees, shall constitute a chapter of the code of ordinances.

§ 949. Work of department. All work under the charge or control of the department may be performed in whole or in part by employees of the department or by day work or by contract, in the discretion of the commissioner.

## ARTICLE 2.

### DOCKS.

Section 955. Regulations of water front property and vessels.

956. Assignment of water front property.

957. Recreation piers.

958. Use of water front property by other departments.

959. Wharfage and top wharfage charges.

960. Schedule of charges to be printed on bills.

961. Dock leases.

962. Permits for sheds.

963. Revocable permits for structures.

964. Licenses for temporary use.

965. Copies of permits to be filed with tax department.

966. Repair and dredging of private property.

967. Removal of obstructions to navigation.

968. Removal of incumbrances.

969. Water front property to be kept clean.

Section 955. Regulations of water front property and vessels. The commissioner or his authorized representative, a deputy commissioner, a superintendent of docks, an assistant superintendent of docks or a dockmaster may provide and assign suitable accommodations for all vessels and regulate their use and occupancy of water front property of the city or of privately owned water front property and order the removal of any vessel not actually engaged in receiving or discharging cargo to make room for vessels prepared to receive or discharge cargo. If an owner of water front property or owner, master or person in charge of a vessel refuse to obey such order, the owner of such water front property or such vessel shall be charged at the rate of not exceeding fifty dollars a day for each day or part of a day commencing from the service of the order upon such owner of water front property or his representative or owner, master or person in charge of the vessel and continuing until the vessel be removed as directed; and

the charge may be collected in an action by the city in any court of civil jurisdiction and the judgment shall constitute a lien upon the vessel; and the commissioner may at any time cause the vessel to be removed and retain it in custody of the department until all such charges together with the charges incidental to such removal and retention have been paid. It shall not be lawful for a vessel to obstruct the waters of the city by lying at the exterior end of piers, except when authorized by the commissioner or his authorized representative.

§ 956. Assignment of water front property. The commissioner, under the direction of or subject to the approval of the sinking fund commission, shall assign water front property of the city for the accommodation of canal boats, for general wharfage purposes, for the use of the various city departments, for the naval militia of the state and for other purposes. Water front property so assigned shall not be leased or used for any other purpose, unless the sinking fund commission shall by special resolution have repealed such assignment. Upon the application of a person aggrieved by the failure of the commissioner to assign water front property the sinking fund commission may assign the same. No repeal of an assignment shall be made by the sinking fund commission except by resolution passed in open meeting after a public hearing upon notice published in the City Record for three days successively in the calendar week preceding the hearing.

§ 957. Recreation piers. The commissioner, with the approval of the sinking fund commission, may build or set aside water front property or portions thereof for recreation purposes. If a pier be set aside for recreation purposes the lower story thereof shall, subject to the provisions of this chapter, be open to use to vessels which bring merchandise to the city plying upon the canals, rivers and lakes of the state.

§ 958. Use of water front property by other departments. When water front property shall have been assigned to a city department or to the naval militia of the state, the expense of repairs, maintenance and dredging of such property shall be paid out of the appropriations made for the department or naval militia for whose use the property shall have been assigned; but upon request such work may be done by the commissioner.

§ 959. Wharfage and top wharfage charges. The commissioner, with the approval of the sinking fund commission, shall fix

the charges for wharfage and dockage and for top wharfage for merchandise remaining on wharf property provided, that the present charges and rates therefor shall continue until changed by the commissioner with the approval of the sinking fund commission. All such charges shall constitute a lien upon the vessel or merchandise on account of which the same may be incurred, and no vessel or merchandise against which such lien exists shall be removed without the consent of the commissioner or the owner or lessee of the water front property until such lien shall have been discharged.

§ 960. Schedule of charges to be printed on bills. The commissioner or owner or lessee of water front property shall cause to be printed on the back of all bills for wharfage or top wharfage a schedule of legal charges therefor, and no charges shall be collectible unless the bill shall have been so printed, and no greater amount than the charges so printed shall be demanded or collected.

§ 961. Dock leases. The commissioner may, with the approval of the sinking fund commission, in the name and in behalf of the city lease other than for ferry purposes water front property belonging to the city, except water front property within the jurisdiction of the park department, for a term not exceeding ten years and covenant for renewals of such leases for terms of not more than ten years each but not exceeding in the aggregate fifty years, the rental for all renewals to be fixed by appraisal as provided for in the lease. Each application for a lease of water front property shall be made in writing to the commissioner who shall enter into negotiations in respect thereto. If an agreement be reached, the agreement or if not the offer shall be transmitted to the sinking fund commission which may fix the terms and conditions of the lease and authorize its execution. A lease when authorized shall be executed by the commissioner under the seal of the department. The commissioner may grant without the approval of the sinking fund commission temporary permits, terminable at the will of the commissioner, for periods not exceeding one year each to use and occupy water front property belonging to the city.

§ 962. Permits for sheds. The owner or lessee of water front property may, with the consent of the commissioner, erect or maintain sheds upon such property upon such terms and conditions as may be prescribed in such consent; and such consent, if accepted and acted upon, shall be revocable by the commissioner

when authorized by resolution of the sinking fund commission, adopted after a public hearing upon not less than ten days' notice by mail to the last known address of the person in possession of such property or his agent. This section shall not limit the rights of an owner or lessee of water front property who shall have heretofore erected sheds authorized by law.

§ 963. Revocable permits for structures. The commissioner may, under such conditions as he may prescribe, issue revocable permits for the construction and maintenance upon water front property of derricks, hoists, conveyors, bins, floating docks and other structures.

§ 964. Licenses for temporary use. The commissioner may build or rebuild or license or permit the building or rebuilding of temporary structures and may, with the approval of the sinking fund commission, execute leases for lands under water for such purposes, but only for terms not beyond the time when such lands under water shall be required for the purpose of carrying out and executing the plans for the improvement and development of the water front.

§ 965. Copies of permits to be filed with tax department. When a permit shall have been granted for the improvement or alteration of water front property not owned by the city the commissioner shall furnish to the tax department, within ten days thereafter, a copy designating the property upon which such improvement is to be made by a description thereof sufficient to identify the same.

§ 966. Repair and dredging of private property. The commissioner, subject to the approval of the sinking fund commission, may order the navigable water adjacent to private water front property to be deepened, and may also order private water front property to be repaired to insure public safety, and if such order be not complied with the commissioner may cause the work to be done. If the owner fail to pay the cost of such work within thirty days after demand the expense thereof shall be estimated and assessed by the board of assessors upon every piece of water front property which shall have been so repaired or adjacent to which the water shall have been deepened in proportion as nearly as may be to the benefit thereto.

§ 967. Removal of obstructions to navigation. If water front property be abandoned and constitute an obstruction to navigation or if a vessel be stranded, sunken or wrecked and be abandoned for ten days the commissioner shall notify the owner



of such abandoned property or vessel, if such owner be within the city and be known to him, to remove the same forthwith, but if such owner be not known to the commissioner or is not within the city or fail to comply with the notice the commissioner shall cause such obstruction or vessel to be removed and the expense of such removal shall be recoverable by action from the owner and shall be a lien on the property or vessel so removed until paid. If such property or vessel be not claimed within thirty days after removal, the commissioner shall advertise the same for sale at public auction to the highest bidder in the City Record daily for six days. The proceeds of the sale shall be paid into the city treasury.

§ 968. Removal of incumbrances. The commissioner may make such rules and regulations and give such directions as will secure dispatch in loading and unloading vessels and prevent the accumulation of freight or merchandise upon water front property of the city. The commissioner may without notice require the removal of vehicles obstructing the water front and may upon twelve hours' notice require all other classes of movable property which obstruct the water front property of the city to be removed by the owner, consignee or person interested therein or in charge thereof within a specified time; and in the event of failure to remove any such vehicle or property the commissioner may cause the same to be removed and stored at the expense of the owner, consignee or interested party and at his risk. The expense of such removal and storage shall be a lien upon the property until discharged by payment and may be collected by action in the name of the city from the owner, lessee or consignee. All movable property so removed and stored and remaining unclaimed for thirty days may be advertised for sale and sold by the commissioner to the highest bidder after notice specifying the marks on each package published in the City Record daily for six days. The proceeds of such sale shall be first applied to the payment of the cost of removal and storage and the excess, if any, shall be paid to the chamberlain for the owner, lessee or consignee. If the proceeds be insufficient to pay such expenses the city shall have an actionable claim against the owner, lessee or consignee for the deficiency.

§ 969. Water front property to be kept clean. The commissioner shall cause all water front property in the possession of the city within the charge and control of the department to be kept clean. He shall dispose of the sweepings, ashes

and other refuse, and for such purpose may use, concurrently with the department having control of street cleaning, the water front property assigned to and set apart for the use of such department; and all contracts made by such department for the removal of ashes, garbage and sweepings shall include the removal of ashes, garbage and sweepings and refuse required to be removed by the department of docks and ferries.

## ARTICLE 3.

## FERRIES.

Section 980. Operation of municipal ferries.

981. Emergency expenditures.

982. Charter of private ferry boats.

983. Ferry leases.

984. Ferry service.

Section 980. Operation of municipal ferries. The commissioner shall operate and manage all municipal ferries, fix time tables and rates of ferriage for vehicles and passengers and lease for periods not exceeding three years all privileges incident to or connected with the operation of such ferries.

§ 981. Emergency expenditures. The commissioner may, with the approval of the board of estimate, without advertisement and competitive bidding when necessary for the proper maintenance of the service make expenditures for repairs to and the purchase of new parts or materials for ferry boats or water front property used for ferries operated by the city not exceeding in any one case the sum of twenty-five thousand dollars which shall be provided for by the issue of special revenue bonds.

§ 982. Charter of private ferry boats. When a ferry boat operated by the city is undergoing repairs or alterations or for any other reason is out of commission the commissioner may, with the consent of the board of estimate, without advertisement and competitive bidding charter a ferry boat to take its place for a period not exceeding sixty days.

§ 983. Ferry leases. The commissioner may, with the approval of the sinking fund commission and upon such terms as the commission may prescribe, in the name and behalf of the city lease a ferry franchise for a term or terms and covenant for renewals, but not exceeding in the aggregate twenty-five years, the rental for all renewals to be fixed by appraisal as provided

for in the lease. All applications for leases of ferry franchises shall be made in writing to the commissioner who shall enter into negotiations in respect thereto. If an agreement be reached the agreement or if not the offer shall be transmitted to the sinking fund commission which may fix the terms and conditions of the lease and authorize its execution. A lease when authorized shall be executed by the commissioner under the seal of the department. The commissioner may also lease in like manner together with a ferry franchise such water front property of the city as may be required for such ferry. A lease may provide for the service to be furnished, the character and speed of boats, the frequency of trips, the rates of fare and commutation and freight charges and that the lease be forfeited in the event of failure to comply with its provisions.

§ 984. Ferry service. If the commissioner be unable to lease a ferry franchise and deem it inadvisable to establish a municipal ferry and, in his judgment, the public interests require the maintenance of ferry service he may, with the approval of the sinking fund commission, contract for the furnishing of ferry service upon the best terms obtainable.

## CHAPTER XXIII.

### PARK DEPARTMENT.

Section 1000. Park board; secretary.

1001. Jurisdiction.

1002. Commissioners; individual jurisdiction.

1003. Transfer of water front jurisdiction.

1004. Maintenance of buildings and continuance of contracts.

1005. Park ordinances; rules and regulations.

1006. Park reports.

1007. Appropriation by boroughs.

1008. Restrictions as to use of Ocean boulevard.

Section 1000. Park board; secretary. The head of the department shall be the park board. It shall consist of four members who shall be known as commissioners of parks. One commissioner shall be appointed for the boroughs of Manhattan and Richmond and one for each of the other boroughs. The commissioner appointed for the boroughs of Manhattan and Richmond shall be the president of the board. The board shall appoint a secretary of the department.

§ 1001. Jurisdiction. The department shall

1. Have charge and control of Riverside drive, Harlem river driveway, the transverse roads in Central park and all public parks, parkways and playgrounds now under the jurisdiction of the park department or which may hereafter be placed under its jurisdiction; but such jurisdiction shall not include buildings now or hereafter erected for governmental purposes other than for the department;

2. Have jurisdiction and control of sidewalks immediately adjoining public parks and playgrounds;

3. Maintain the beauty and utility of parks, parkways and playgrounds and provide for their improvement;

4. Authorize and regulate projections on and determine the line or curb and surface construction of all streets within its jurisdiction;

5. Plant trees and construct and place seats, drinking fountains, statues and works of art;

6. Manage, direct and control property conveyed or transferred to the city for the improvement or ornamentation of parks, parkways or playgrounds; or for the establishment or maintenance in parks of museums, zoological, botanical or other gardens, collections of natural history, observatories, or works of art upon the terms and conditions prescribed by the grantors or donors and accepted by the city;

7. Have power to permit, upon the application in writing of the fire commissioner, a building for fire apparatus to be placed temporarily in a park;

8. Perform contracts entered into for the use of the parks for purposes of art and education;

9. Grant permits for the use of park property for business purposes which contribute directly to the use, convenience or enjoyment of the parks by the public upon such terms as the board of estimate shall approve;

10. Establish and enforce rules and regulations for the government and protection of parks, parkways and playgrounds and of all streets and property within the jurisdiction of the department, which rules and regulations shall be uniform as far as practicable in all boroughs;

11. Have authority to set apart and authorize the use of a park or part thereof for the purpose of a children's farm or garden and equip the same.

§ 1002. Commissioners; individual jurisdiction. Subject to the general rules and regulations of the department, each commissioner shall have charge in the borough for which he is appointed of the public parks, parkways, playgrounds and streets within the jurisdiction of the department; of the regulation of projections and determination of the line or curb and surface construction of such streets; the granting of permits for park privileges; and the appointment and removal of employees except those engaged in the general administrative work of the department.

§ 1003. Transfer of water front jurisdiction. Water front property below high water mark heretofore in the charge and control of the department may be transferred by the sinking fund commission to the jurisdiction of the department of docks and ferries.

§ 1004. Maintenance of buildings and continuance of contracts. The department may continue the contracts with the Metropolitan Museum of Art; the American Museum of Natural History; the New York Public Library, Astor, Lenox and Tilden Foundations; New York Zoological Society; the Brooklyn Institute of Arts and Sciences; the board of managers of the New York Botanical Garden. It may maintain and equip the New York Botanical Garden, the Meteorological and Astronomical Observatories, the Museum of Natural History, the Metropolitan Museum of Art, the Aquarium and the Brooklyn Institute of Arts and Sciences. The department may, upon conditions approved by the board of estimate, arrange with the United States of America for the latter to use the buildings and equipment of the Meteorological and Astronomical Observatory. The department may maintain and equip such other institutions as may be established or constructed in any park and placed under its jurisdiction by the sinking fund commission. Each of the institutions shall make annual report to the board of estimate, in such detail as the board may require, of its condition and affairs including compensation paid to its officers and employees.

§ 1005. Park ordinances; rules and regulations. All ordinances, rules and regulations of the department, except such as relate to its organization or to the duties or discipline of its officers and employees, shall constitute a chapter of the code of ordinances.

§ 1006. Park reports. The department shall, within ninety days hereafter, prepare and transmit to the board of estimate and board of aldermen a list and description of all parks, parkways,

playgrounds and streets immediately hereafter under the jurisdiction of the department in each borough, which shall be published in the City Record.

§ 1007. Appropriation by boroughs. The department shall in its annual departmental estimate state separately the amount required for park purposes for maintenance and for permanent improvements in each borough. Funds appropriated for park purposes in one borough shall not be expended in another borough, except with the consent of the board of estimate.

§ 1008. Restrictions as to use of Ocean boulevard. The department may by rules and regulations restrict the use and occupation of the main drive of Ocean boulevard in the borough of Brooklyn from twenty-second avenue to Kings highway to horses and light carriages and exclude other vehicles, motor vehicles and bicycles.

## CHAPTER XXIV.

### BRIDGE DEPARTMENT.

Section 1010. Commissioner of bridges; subordinates.

1011. Definition.

1012. Jurisdiction.

1013. Bridges are public highways.

1014. Right of entry on private property.

1015. Leases.

1016. Paving on bridges.

1017. Sweeping and cleaning of bridge roadways.

Section 1010. Commissioner of bridges; subordinates. The head of the department shall be the commissioner of bridges. He shall appoint a deputy and a secretary of the department.

§ 1011. Definition. Wherever used in this chapter the terms "public bridge" or "bridge" mean a bridge or viaduct constructed in whole or in part at the public expense across navigable waters or having termini in more than one borough, except bridges wholly in public parks and having termini in the same borough.

§ 1012. Jurisdiction. The department shall have charge and control of

1. The preparation of plans and specifications for and the construction, management, maintenance, repair and alteration of all public bridges with their approaches and entrances;

2. The construction and equipment of the municipal building located at the Manhattan terminal of the Brooklyn bridge;

3. The preparation of plans and specifications for and the construction, management, maintenance, repair and alteration of all tunnels constructed at the city's expense in whole or in part or acquired by the city and located under navigable waters or having termini in more than one borough, other than tunnels constructed or acquired pursuant to the provisions of the rapid transit act ;

4. The use of any such bridge or tunnel and the collection of tolls, rentals and other charges therefor; but the income of the Williamsburg bridge, after paying for its maintenance, shall be paid monthly to the sinking fund commission to be applied toward the payment of the interest and principal of the bonds issued under the provisions of chapter seven hundred and eighty-nine of the laws of eighteen hundred and ninety-five ;

5. The operation of railroads upon such bridges and approaches and through such tunnels, so far as such operation affects the maintenance, repair, alteration and safety of such bridges, approaches and tunnels ;

6. The preparation of plans and specifications for and the installation, management, maintenance, repair and alteration of all electrical equipment required for the operation of public bridges, subject to the approval of the department of water, gas and electricity. Contracts for the use of electrical current upon such bridges shall be made by the commissioner of water, gas and electricity as provided in this act.

§ 1013. Bridges are public highways. All bridges and tunnels under the jurisdiction of the department are declared to be public highways, subject to such tolls and charges as may be fixed by the board of estimate and to such prudential regulations as may be prescribed by ordinance; provided, however, that on every such bridge there shall be a free passageway for foot passengers and that no tolls or other charges shall be charged for vehicles other than those operated by common carriers for hire.

§ 1014. Right of entry on private property. The commissioner may, when authorized by the board of estimate, make surveys, soundings and borings on the site of a proposed bridge or tunnel and for such purpose the commissioner and his representatives authorized in writing may enter upon any real property.

§ 1015. Leases. The commissioner may, with the approval of the sinking fund commission and upon such terms and conditions as it prescribe, in the name and in behalf of the city lease any of the real property of the city acquired and necessary for bridge purposes but not used therefor, except water front property,

for a term not exceeding ten years and covenant for renewals upon fair revaluations of such leases for terms of not more than ten years each. All applications for leases of such property shall, in the first instance, be made in writing to the commissioner, who may enter into negotiations in respect of leases so far as concerns the precise property to be leased, the term of the lease and the rental and the covenants generally. After a tentative agreement shall have been reached between the commissioner and the proposed lessee, such tentative agreement, or if no such agreement be arrived at, then the offer of the proposed lessee shall be transmitted to the sinking fund commission which may fix the terms and conditions of the lease and authorize its execution. Resolutions of the sinking fund commission authorizing the lease shall be adopted only after a public hearing, notice of which shall have been published in the City Record for six consecutive days not less than seven nor more than thirty days before the hearing. The lease when authorized shall be executed by the commissioner and shall be sealed with the seal of the department; and all rentals shall be collected by him and paid to the chamberlain.

§ 1016. Paving on bridges. On all bridges within the jurisdiction of the department the roadway, pavement and sidewalks shall be laid, maintained and repaired by the department.

§ 1017. Sweeping and cleaning bridge roadways. This chapter shall not impose upon the commissioner of bridges the charge or control of sweeping the roadways and sidewalks of bridges and their approaches, except of bridges crossing navigable streams.

## CHAPTER XXV.

### STREET CLEANING DEPARTMENT.

Article 1. Organization, powers and duties of department.  
(§§ 1030-1035.)

2. Pensions. (§§ 1040-1050.)

### ARTICLE 1.

#### ORGANIZATION, POWERS AND DUTIES OF DEPARTMENT.

Section 1030. Commissioner; subordinates.

1031. Jurisdiction.

1032. Performance of work.

1033. Public uses.

1034. Removal of snow and ice.

1035. Clerical and uniformed forces.

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**Section 1030. Commissioner; subordinates.** The head of the department shall be the commissioner of street cleaning. He shall appoint five deputies and a secretary of the department, and may appoint a sanitary engineer.

§ 1031. Jurisdiction. The department shall have charge and control of the sweeping, cleaning, sprinkling, flushing or washing and sanding of the streets of the city; the removal, or other disposition as often as the public health and the use of the streets may require, of ashes, garbage, street sweepings and other refuse and rubbish; and of the removal of snow and ice from leading thoroughfares and from such other streets as may be found practicable; and the removal or other disposition of ashes from the docks of Blackwell's and Randall's islands and shall furnish scows or other suitable receptacles for the removal of the same. Such jurisdiction shall not extend, however, to streets in the charge and control of the park department or department of docks and ferries.

§ 1032. Performance of work. In the discretion of the commissioner the work of the department may be performed in whole or in part by employees of the department, or by day work or by contract. Contracts for any such purpose, including contracts for the removal of snow and ice, and the final disposition of ashes, garbage, street sweepings or other refuse and rubbish shall not be awarded or entered into until approved by the board of estimate, and shall be for not more than five years. In an emergency, upon the written authorization of the mayor, the commissioner may, without advertising or public letting, hire for temporary service men, horses, vehicles, vessels, machinery, tools and equipment at compensation by day or trip for not more than three successive days where the aggregate compensation therefor exceed one thousand dollars. This act shall not affect an existing contract made with the department for cleaning Broadway below Fourteenth street or the renewal thereof if deemed best by the commissioner.

§ 1033. Public uses. The water front property assigned for the use of the department shall, whenever practicable, be used by the general public for dumping such material as the department shall permit, upon such conditions as may be imposed by it and the commissioner of docks. The department may cause snow and ice to be dumped along the water front at the places designated by the commissioner of docks.

§ 1034. Removal of snow and ice. If in any calendar year the expense of removing snow and ice exceed the amount appropriated

therefor, the additional expenditures required for such purpose shall be met by the issue of special revenue bonds in such amount, as shall be certified by the commissioner and approved by the board of estimate.

§ 1035. Clerical and uniformed forces. There shall continue to be in the department a clerical force and a uniformed force. The existing ranks in each force shall continue until changed by the commissioner with the consent of the board of estimate. The commissioner may establish additional ranks in the clerical force and may, with the consent of the board of estimate, establish additional ranks in the uniformed force. Time actually served by a member of the clerical or uniformed force in the bureau of street cleaning in the former city of Brooklyn or in either of the boroughs of Queens or Richmond shall count for all purposes as if served in the department. The officers and employees of the department shall be employed at all such times, during such hours and upon such duties as the commissioner may direct.

## ARTICLE 2.

### PENSION FUND.

Section 1040. Street cleaning pension fund; commissioner, trustee of.

- 1041. Funds to be paid trustee; false affidavits.
- 1042. Composition of pension fund.
- 1043. Retirement of and pensions to members.
- 1044. Pensions to dependents.
- 1045. When certain pensions terminate.
- 1046. Certificate of disability; rules as to pensions.
- 1047. Salary deductions.
- 1048. When pensions to be paid.
- 1049. Deferred payment of pensions.
- 1050. Present pensions payable from fund.

Section 1040. Street cleaning pension fund; commissioner, trustee of. There shall be a pension fund of the street cleaning department which shall be made up, administered and used for the benefit of the members of the clerical and uniformed forces of the department. The commissioner shall be the trustee and treasurer of the fund. He shall, before entering upon his duties, give a bond in the penal sum of seventy-five thousand dollars to be

approved by and filed with the comptroller conditioned upon the faithful discharge of his duties and the accounting for all moneys and property which shall come into his hands. The expense of the commissioner for sureties on the bond shall be a charge upon the fund. He shall have charge of, invest and administer the fund. He may establish rules and regulations for the disposition, investment, preservation and administration of the fund. No payment shall be allowed or made by the trustee from the fund as reward, gratuity or compensation to any person for salary or services rendered to or for the trustee except compensation for the expense of procuring sureties on his bond as treasurer. The commissioner may employ members of the clerical staff in such clerical work as may be necessary in the administration of the fund without additional compensation. On or before the first day of February of each year the trustee shall make a verified report as of the thirty-first day of December next preceding to the mayor and board of aldermen of the condition of the fund and of his proceedings as trustee, containing a statement of all receipts, investments and disbursements on account of the fund together with the name and residence of and the amount paid each beneficiary for or on account of the fund. The commissioner of accounts and statistics shall, on or before the first day of March in each year, audit the account of the trustee and make report to the mayor within thirty days thereafter.

§ 1041. Funds to be paid trustee; false affidavits. All moneys, securities, revenues and incomes belonging to the fund shall be paid over and delivered to the commissioner as trustee. A person who knowingly or willfully makes or procures the making or presentation of a false or fraudulent affidavit concerning any claim for pension or payment thereof shall, in addition to other punishment, forfeit a sum not exceeding two hundred and fifty dollars to be sued for and recovered by and in the name of the trustee and when recovered paid over to and become a part of the pension fund.

§ 1042. Composition of pension fund. The pension fund shall consist of

1. A sum of money equal to but not greater than three per centum of the weekly or monthly compensation of each member of the department to be deducted weekly or monthly as the case may be, from the compensation of each member of the department and be paid to the treasurer of the fund;

2. All compensation forfeited, deducted or withheld from any member of the department of street cleaning on account of fines, forfeitures, suspensions or absence from any cause, lost time, sickness or other disability, physical or mental, to be paid monthly to the treasurer of the fund, except in the case of a sweeper, driver, hostler, stableman or other employee who may have been absent and whose position has been filled by an extra sweeper, driver, stableman or other temporary employee to whom compensation has been paid;

3. All moneys received by the city for the privilege of scow trimming or assorting of refuse at the various dumps in the boroughs of Manhattan, Brooklyn or Bronx or at any other place where refuse may be disposed of in said boroughs, excepting in so far as such privilege be given to contractors under any contract now in force, to be paid to the treasurer monthly;

4. All moneys received by the city from the sale and disposal of steam or house ashes, garbage and street sweepings collected by the department;

5. All proceeds of sales of condemned horses or other property of the department, except real property; and so much of the proceeds of sales of unharnessed trucks, carts, wagons and vehicles and of boxes, barrels, bales or other merchandise or other movable property found in any public street or place and removed therefrom by the commissioner and sold by him as exceeds the expense of such sales and which is not payable to the owners of the incumbrances sold; and all moneys collected for the release of merchandise, unharnessed vehicles or movable property removed as aforesaid;

6. All unexpended balances of appropriations for the payment of compensation of the members of the department after the allowance of all claims payable therefrom. Such unexpended balances remaining after the expiration of the year for which appropriated, after allowing sufficient to satisfy all claims payable therefrom, shall be paid to the trustee;

7. All gifts or bequests which may be made to the fund or the commissioner of street cleaning as trustee;

8. The assets of the relief and pension fund of the department of street cleaning.

§ 1043. Retirement of and pensions to members. The commissioner shall retire and dismiss members of the department from membership therein and thereupon grant annual pensions

during the lifetime of the beneficiary which shall not be revoked, reduced or diminished as follows:

1. Upon his own application in writing, to a member of the age of fifty-five years who shall have served for a period of at least twenty years whether continuous or rendered at different periods, a sum equal to one-half his annual salary;

2. To a member who in the performance of duty and by reason thereof and without fault or misconduct on his part shall have become permanently disabled, physically or mentally, so as to be unfitted to perform duty in the department a sum, in the discretion of the commissioner, not less than three hundred dollars nor more than not one-half his annual salary;

3. To a member who shall, after ten years of service by reason of disability, physical or mental, have become without fault or misconduct on his part unfitted or unable to perform duty in the department a sum, in the discretion of the commissioner, equal in amount to not less than one-half his annual salary.

§ 1044. Pensions to dependents. The commissioner shall grant annual pensions to the dependent parents, widow or children of a deceased member of the department as follows: If such member shall have been killed in the actual performance of duty or have died from the effects of injury received in the actual discharge of duty and leave a dependent widowed mother but no widow or child under eighteen years of age, the sum of two hundred dollars to such widowed mother; if he leave a widow or a widow and child or children under eighteen years of age, the sum of three hundred dollars to the widow or widow and child or children, or if the widow die or remarry, to the child or children; or if he leave no widow but a child or children under eighteen years of age, the sum of three hundred dollars to such child or children. If such member die after ten years of service or after retirement upon a pension and leave a widow or widow and child or children under eighteen years of age, the sum of two hundred dollars to the widow or the widow and child or children, or if the widow die or remarry, to such child or children; or if he leave no widow but a child or children under eighteen years of age, the sum of two hundred dollars to such child or children.

Pensions granted under this section shall be paid from the date of the death of the member and if there be more than one beneficiary shall be divided among the beneficiaries in such proportions as the trustee may from time to time direct. The term

“widow” as used in this article shall not include the widow of a member who became his wife after his retirement.

§ 1045. When certain pensions terminate. Pensions to widows shall terminate when the widow remarry and pensions to a child shall terminate whenever the child marry or arrive at the age of eighteen years.

§ 1046. Certificate of disability; rules as to pensions. No member shall be granted a pension on account of physical or mental disability, unless a certificate of a majority of the medical examiners of the department selected by the commissioner setting forth the disease or disability from which the member is suffering and the extent of the disability be filed in the department. The determination of the medical examiners shall be final.

§ 1047. Salary deductions. No deduction shall be made from the compensation of any person now a member of the department unless such member shall have consented or within thirty days hereafter consents thereto in writing filed with the commissioner; and any such member who shall have failed to file such consent as aforesaid shall not be entitled to become a beneficiary of the pension fund. Such deduction shall be made from the compensation of every person who shall hereafter become a member of the department and each such member shall be entitled to the benefit of the fund.

§ 1048. When pensions to be paid. No pension shall be paid under the provisions of this act prior to January first, nineteen hundred and thirteen.

§ 1049. Deferred payment of pensions. Pensions as provided herein to members who shall have become disabled or to the dependents of members who shall have died subsequent to September first, nineteen hundred and eleven, and prior to January first, nineteen hundred and thirteen, shall be payable on and after said last mentioned date.

§ 1050. Present pensions payable from fund. Pensions payable from the relief and pension fund of the department of street cleaning shall be payable from the pension fund.

## CHAPTER XXVI

## DEPARTMENT OF LICENSES.

**Section 1060. Commissioner of licenses; deputies; secretary.**

1061. Jurisdiction.

1062. Certificates and licenses of engineers and firemen.

1063. Licenses authorized by ordinance.

1064. Commissioner of agencies.

**Section 1060. Commissioner of licenses; deputies; secretary.** The head of the department shall be the commissioner of licenses. He shall appoint a deputy and a secretary of the department. Subject to the provisions of this act the department shall in relation to licenses and permits succeed to the powers and duties of the mayor and the bureau of licenses attached to the mayor's office.

§ 1061. Jurisdiction. The department shall have charge and control of the granting, issuing, transferring, renewing, revoking, suspending and canceling of all licenses the issuance of which by a city department, board, body, bureau, office, officer or employee is authorized by statute or ordinance, except licenses issuable under the general business law for employment agencies, marriage licenses, and licenses, permits and certificates authorized by this act to be issued by a different department, board, body, office, officer or employee. Licenses may be issued for exclusive cab stand privileges after sale at public auction or upon sealed bids in accordance with regulations established by ordinance. The mayor, whenever in his judgment the public interests require, may by order served upon the manager or person in charge of a licensed place of public exhibition or amusement suspend an exhibition therein, and if the order be not complied with revoke the license of such place.

§ 1062. Certificates and licenses of engineers and firemen. The commissioner shall have jurisdiction over the issuance, suspension and revocation of certificates of qualification to engineers and licenses to firemen to operate or use steam boilers, except for railway locomotive engines and for heating purposes in private dwellings and boilers carrying not over ten pounds of steam and of not over ten horse power. Such certificates or licenses shall be issued, suspended or revoked only upon the recommendation of a board of examiners to be appointed by the commissioner consisting of three members, one of whom shall be a member of the National Association of Stationary Engineers and

one a member of the International Union of Steam Engineers and each a resident of the city and a duly licensed engineer or fireman of at least ten years' experience. The board shall make rules governing and conduct examinations for ascertaining the fitness and qualifications of applicants for such certificates or licenses. Each member of the board shall receive ten dollars for each day's attendance at its meetings, and the expense of the board shall be paid by the city and provided for in the budget.

§ 1063. Licenses authorized by ordinance. Where, under sections of acts constituted by this act sections of the code of ordinances, jurisdiction of licenses is vested in a department, board, body, office or officer the department of licenses shall hereafter have jurisdiction thereof, unless other provision therefor be specifically made in this act.

§ 1064. Commissioner of agencies. The title of the officer exercising the powers and performing the duties within the city of commissioner of licenses, as provided in the general business law, shall hereafter be commissioner of agencies.

## CHAPTER XXVII.

### DEPARTMENT OF MARKETS, WEIGHTS AND MEASURES.

Section 1070. Head of department.

1071. Control of markets.

1072. Market privileges and revenues.

1073. Market lands.

1074. Control of weights and measures.

Section 1070. Head of department. The head of the department shall be the commissioner of markets, weights and measures. He shall appoint two deputies and a secretary of the department.

§ 1071. Control of markets. The department shall have the control of all public markets, market places and market lands of the city and of all vehicles employed in the business of selling fish, meats and farm and garden produce in the city. Subject to the provisions of the code of ordinances the commissioner may make suitable regulations concerning fees for market privileges, the hours during which business shall be conducted and the general management of the same, including the authority to grant, transfer or revoke permits to vend and sell in markets or upon market lands.



§ 1072. Market privileges and revenues. All stalls and stands in markets or on market lands shall be rented on permits to be issued by the commissioner or an officer or employee of the department designated and empowered by the commissioner to issue such permits, and such permits heretofore issued by the comptroller or hereafter issued as provided in this section may be revoked for cause by the commissioner. All market rents and all revenues derived from permits for the use of space or accommodations in markets or upon market lands shall be collected by the chamberlain.

§ 1073. Market lands. The following shall be public markets:

1. The lands bounded on the north by Bloomfield street, on the south by Gansevoort street, on the east by West street and Tenth avenue and on the west by Thirteenth avenue in the borough of Manhattan;

2. The block of ground bounded on the north by Little Twelfth street, on the south by Gansevoort street, on the east by Washington street and on the west by West street and Tenth avenue in the borough of Manhattan for the exclusive use of farmers and market gardeners;

3. The Wallabout market and market lands in the borough of Brooklyn. The portion thereof commonly known as "farmers' square" shall be kept for the exclusive use of farmers and market gardeners; provided, that nothing herein contained shall interfere with the jurisdiction of the dock department and that no certificate shall be issued permitting the sale or offering for sale of any distilled or rectified spirits, wine or fermented or malt liquors within the limits of said market lands.

§ 1074. Control of weights and measures. The department shall have charge and control of the inspection, examination, testing, sealing and marking of weights, scales and measures and the seizure of false, short or unsealed weights, scales and measures. The commissioner shall have the power and perform the duties of the present commissioner of weights and measures in charge of the mayor's bureau of weights and measures.

## CHAPTER XXVIII.

## DEPARTMENT OF ARCHITECTURE.

## Section 1080. City architect.

1081. Jurisdiction.

1082. Plans and specifications; supervision.

1083. Building contracts; architect's certificate.

1084. Limitations.

Section 1080. City architect. The head of the department shall be the city architect. He shall be an architect of at least fifteen years' practical experience. He shall be a member ex-officio of the art commission. He shall appoint a secretary of the department.

§ 1081. Jurisdiction. The department shall, as provided in this chapter, prepare plans and specifications for and supervise the construction and alteration of public buildings and structures of the city or a county.

§ 1082. Plans and specifications; supervision. The city architect shall, upon the request of a head of department, board, body or office of the city or a county, prepare and furnish plans and specifications for the construction or alteration of a building or structure proposed to be erected or altered by or for the use of such department, board, body or office and supervise the construction or alteration of the same. Any such head of department, board, body or office may, when authorized by the board of estimate, employ other architects to prepare plans and specifications for and other persons to supervise the construction or alteration of any such building or structure, with whom the city architect, as directed by the board of estimate, shall co-operate. A head of a department, board, body or office may, however, employ other architects to prepare plans and specifications for a building or structure without such authorization by the board of estimate, but in such case the construction or alteration of such building or structure shall be supervised by the city architect.

§ 1083. Building contracts; architect's certificate. No payment shall be made on account or in full upon a contract hereafter made for the construction or alteration of a public building or structure, constructed or altered under the supervision of the city architect or architect employed pursuant to authority given by the board of estimate without the certificate of the city architect or architect employed pursuant to authority given by the board of estimate, respectively, that such payment has been earned and is

due in accordance with the contract and the plans and specifications for such building or structure.

§ 1084. Limitations. The term building or structure, or its equivalent, as used in this chapter, shall not include a bridge, tunnel, subway or an appurtenance thereof; or a building or structure for water supply purposes; or a dock, pier, wharf or bulkhead, except a public building thereon. This chapter shall not exempt public buildings or structures of the city or a county from the requirements or restrictions of the provisions of any statute or ordinance regulating the construction, alteration or removal of buildings in the city.

## CHAPTER XXIX.

### ART COMMISSION.

Section 1090. Composition.

1091. Members ex-officio; proxies.

1092. Present members continued.

1093. Organization.

1094. Jurisdiction.

1095. Work of art defined.

1096. Buildings or structures in or extending over or upon public property.

1097. Time for decision limited.

Section 1090. Composition. The art commission shall be composed of

1. The mayor;
2. The city architect;
3. The president of the Metropolitan Museum of Art;
4. The president of the New York Public Library (Astor, Lenox and Tilden foundations);
5. The president of the Brooklyn Institute of Arts and Sciences; and

6. Six members appointed by the mayor, of whom one shall be a painter, one a sculptor and one an architect, and three others, none of whom shall be a member of a profession in the fine arts. The appointive members shall be residents of the city and be appointed from a list of not less than three times the number to be appointed, nominated by the Fine Arts Federation of New York. If the Federation fail to present a list twenty days before the expiration of the term of an appointive member or within ten days

after a vacancy occurring otherwise than by expiration of term, the mayor may appoint without such nomination. The term of office of each appointive member shall be three years.

§ 1091. Members ex-officio; proxies. Each head of a department, board, body or office or, if such head be composed of more than one, the president thereof may sit and vote as a member of the commission when it is considering any matter relating to his department, board, body or office. Each president of an institution named in the preceding section may designate a trustee of such institution to serve in his place during his term, which designation shall be revocable.

§ 1092. Present members continued. Members of the commission serving pursuant to appointment of the mayor shall continue in office for the remainder of their respective terms.

§ 1093. Organization. The commission shall elect a president and vice-president from its members whose terms of office shall be for one year and shall appoint a secretary. The commission may adopt rules of procedure and six commissioners shall constitute a quorum. The members of the commission shall serve without compensation.

§ 1094. Jurisdiction. No work of art shall hereafter become the property of the city by purchase, gift or otherwise, until the same or the design thereof together with the location proposed shall have been approved in writing by the commission; nor shall any such work be contracted for or placed in, upon or over a street, public building, public place or other real property owned by the city without like approval. The commission may require the submission to it of a complete model of any work of art proposed to be placed in, upon or over any public building, street or other public place. No work of art of the city shall be removed, relocated or changed without the approval of the commission unless the mayor certify to the urgency of immediate action, in which case the approval of the commission shall be presumed unless, within forty-eight hours after notice of such certification, the commission disapprove and notify the mayor of such disapproval and present another plan satisfactory to him.

§ 1095. Work of art defined. The term "work of art" shall include paintings, mural decorations, stained glass, statues, reliefs, sculptures, monuments, columns, arches, tablets, fountains or other structures of a permanent character intended for ornament or commemoration.

§ 1096. Buildings or structures in or extending over or upon public property. No building, bridge, approach, gate, fence, lamp or other structure shall be erected upon or extended over a street, public building, public place or other real property owned by the city without the approval of the design and location by the art commission. The term building or structure or its equivalent, as used in this chapter, shall not include a bridge, tunnel, subway or an appurtenance thereof; a building or structure for water supply purposes; or a dock, pier, wharf or bulkhead, except a public building thereon. The lines, grades and plotting of public grounds shall be subject to like approval of the commission.

§ 1097. Time for decision limited. If, within sixty days after submission, the commission fail to disapprove a matter submitted its approval shall be presumed.

### CHAPTER XXX.

#### MUNICIPAL CIVIL SERVICE COMMISSION.

##### Section 1100. Commissioners; secretary.

1101. Civil service rules.

1102. Power to investigate.

1103. Veterans.

Section 1100. Commissioners; secretary. The mayor shall appoint three persons, not more than two of whom shall be members of the same political party, to be municipal civil service commissioners. The commissioners shall constitute the municipal civil service commission. One of the commissioners shall be president of the commission and shall be so designated in his appointment. The commission shall appoint a secretary of the department.

§ 1101. Civil service rules. The commission shall have power to prescribe, amend and enforce rules, in accordance with the provisions of the constitution and the civil service law, for the classification of the offices, positions and employments in the classified service of the city; for appointments, promotions, transfers, removals, reinstatements and changes of status therein; and for the registration and selection of laborers for employment therein. It may alter and amend the same. Such rules and any alteration, modification or amendment thereof shall take effect as provided in the civil service law. The commission may adopt rules providing, so far as practicable, for the regular employment of members of the labor class in the several city departments, boards, bodies and offices.

§ 1102. Power to investigate. The commission may investigate the enforcement and effect of the civil service law and the rules and regulations prescribed thereunder, or concerning the action of any examiner or subordinate of the commission or of any person in the classified service of the city in respect of the execution of the civil service law. For such purposes each commissioner and the secretary may administer oaths. The commission may subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigations and inquiries hereby authorized and to examine them and such public records as it may require in relation to any matter which it is required to investigate. For this purpose the commission shall possess all the powers conferred by the civil code upon a board or committee and may invoke the power of a court of record to compel the attendance of witnesses or the testifying thereby.

§ 1103. Veterans. The veterans of the army and navy and volunteer fire departments now in the service of the city shall continue in such service with all of the rights and privileges now possessed by them.

## CHAPTER XXXI.

### PUBLIC RECREATION COMMISSION.

Section 1110. Composition of commission; secretary.

1111. Organization of commission.

1112. Powers of commission.

1113. Rules and regulations.

1114. Assignment of property to commission.

1115. Matters relating to recreation to be referred to commission.

Section 1110. Composition of commission; secretary. The public recreation commission is continued. The president of the park board, a commissioner of education to be designated by the mayor and five persons appointed by the mayor shall constitute the commission. The present appointive members of the commission shall continue to serve during the terms for which they were respectively appointed and their successors shall be appointed for terms of five years each. A vacancy in the office of an appointive member of the commission shall be filled for the balance of the unexpired term. The appointive members may be removed by the mayor for cause after notice and an opportunity to be heard. The members of the board shall serve without compensation.

§ 1111. Organization of commission. The commission shall elect a president from its number and shall appoint a secretary who shall be its chief executive officer.

§ 1112. Powers of commission. The commission shall have supervision, charge and control of

1. Playgrounds, playground fixtures and other recreational properties placed under its charge by the sinking fund commission;

2. Real property hereafter obtained by the city through purchase, gift or loan for playground or recreational use;

3. The acquisition by lease or gift of private property for playground purposes; but no expenditure of city moneys shall be made for the equipment or administration thereof until the consent of the board of estimate to the acquisition of such property shall have been obtained;

4. Gifts made to the city for recreational purposes, of which the commission shall make a full and complete annual financial statement to the comptroller, including an accounting of receipts and disbursements of all private or city moneys under its control.

§ 1113. Rules and regulations. The commission may adopt rules and regulations for the administration of all property under its control.

§ 1114. Assignment of property to commission. The sinking fund commission may assign to the commission for temporary use any city property it may deem suitable for recreation purposes, provided that upon one month's written notice from the sinking fund commission such property shall be returned to the full control of the sinking fund commission.

§ 1115. Matters relating to recreation to be referred to commission. All matters relating to recreation brought before the board of estimate, including the proposed purchase of grounds or properties for recreation use, shall be referred to the public recreation commission for report before final action.

## CHAPTER XXXII.

### BOARD OF CITY RECORD.

**Section 1120.** Board of city record; City Record to be published daily.

1121. Contents and distribution of the City Record.

1122. City advertising; corporation newspapers.

1123. City printing, blank books and stationery.

1124. Assessed valuations of real property; land value maps.

**Section 1125. Lists of registered and enrolled voters.**

1126. Civil list.

1127. Office hours of departments and courts; official canvass; list of registered plumbers.

1128. Designation of law journal.

1129. Notices of auction sales.

Section 1120. Board of city record; City Record to be published daily. The mayor, corporation counsel and comptroller shall constitute the board of city record. The board shall appoint a supervisor of the City Record, a deputy supervisor of the City Record and a secretary. The City Record shall be published daily, Sundays and legal holidays excepted, and the expense of the publication and distribution of the City Record and supplements, except the compensation of the supervisor, deputy, secretary and assistants, shall be determined by contract.

§ 1121. Contents and distribution of the City Record. Only official matters relating to the city or the counties shall be published in the City Record and supplements thereof. The contract for the publication of the City Record and supplements shall provide for furnishing free of charge to the city such number of copies as shall be determined by the board, to be distributed to such departments, boards, bodies and offices as the board determine; also to every newspaper regularly published in the city, upon application, two copies and to every public library or public institution in the city, upon application, one copy. Copies of the City Record or supplements thereof shall be furnished and sold by the supervisor at a price to be fixed by him, and the proceeds thereof shall be paid into the city treasury to the credit of the general fund. The supervisor shall cause a continuous series of the City Record to be bound as completed monthly and to be deposited, with his certificate thereon, in the office of the register of deeds of the county of New York and of the county of Kings, in the county clerk's office in each county within the city and in the office of the city clerk, and copies of the contents of any part of the same certified by a register, county clerk or city clerk shall be received in evidence in judicial proceedings. The mayor may order the insertion of any official matter or report in the City Record.

§ 1122. City advertising; corporation newspapers. The City Record and the newspapers now by law designated as corporation newspapers shall be the only papers to be included within the



term corporation newspapers as the same is used in this act; but no notice of advertisement shall be necessary in any corporation newspaper other than the City Record except such as relates exclusively to the borough of Brooklyn and the aggregate amount to be paid to said newspapers for publication thereof shall not exceed in any year the sum now paid to said newspapers annually. All city advertising, except as in this act otherwise provided, and all notices required by law or ordinance to be published in corporation newspapers shall be inserted at public expense only in the City Record and publication therein shall be a sufficient compliance with any law or ordinance requiring publication of such matters and notices; but there may be inserted in two morning and two evening and two weekly or semi-weekly papers published in the English language and in one paper to be designated by the board published in each of the German, French, Italian and each other language determined by the board brief advertisements calling attention to any contracts or obligations advertised for letting or sale and referring for full information to the City Record. Where such special notices and advertisements respect matters occurring within or relating to the borough of Brooklyn, they shall also be published in the corporation newspapers published in the borough of Brooklyn at rates not exceeding those now paid to said newspapers for like advertisements, and where such notices and advertisements respect matters occurring within or relating to any other borough they shall be published in such newspapers published in the borough as may be designated by the board, but no newspaper shall be so designated unless it shall have been regularly published in the borough for at least one year. Advertisements of the sale of real estate or city obligations may be inserted in such other newspapers as the board may determine.

§ 1123. City printing, blank books and stationery. All printing for the city and for the counties shall be executed and all stationery and blank books shall be supplied under contracts to be entered into by the board which may, however, authorize any printing to be done or stationery or blank books to be supplied without advertising and public letting. Except as printed in the City Record not more than two thousand copies of any message of the mayor or report of a head of a department, board, body or office and not more than one thousand copies of any report of a committee of the board of aldermen shall be printed without the consent of the board of estimate.

§ 1124. Assessed valuations of real property; land value maps. The supervisor of the City Record shall cause the record of the assessed valuation of real property delivered to him by the tax department to be published annually in the City Record in type not smaller than nonpareil within ninety days after delivery. Such record of the assessed valuation of real property of each section, district or ward, shall be printed separately as a supplement. On each supplement shall be printed the number of the section, district or ward therein contained, its boundaries or an outline map and the name of the borough in which situated. If the tax department require, the supervisor shall annually print the land value maps as supplements.

§ 1125. Lists of registered and enrolled voters. The board of elections shall deliver to the supervisor of the City Record and he shall cause to be published therein the lists of names of registered voters and transcripts of enrollment books required by the election law to be printed or published by the board of elections, arranged consecutively by assembly districts and by election district of assembly districts and by house numbers consecutively in each street in the manner and within the time provided in said law. The registry lists and transcripts of enrollment books of each assembly district shall be printed separately in pamphlet form as a supplement to the City Record.

§ 1126. Civil list. There shall be published in the City Record within the month of July a list of all the officers and employees, other than laborers, of the city and the counties who have been or have become such officers or employees during the preceding year. Such list shall contain the name, residence by street number, nature of and date of entrance into the service or employment, the date of cessation thereof, if any, the salary or compensation received and a statement of any increase or decrease thereof during said period. All changes affecting officers or employees or their salaries or compensation shall be published in the City Record within one week after they are made. The head of each department, board, body and office and each officer shall furnish to the supervisor of the City Record all matters within his jurisdiction required to be inserted therein.

§ 1127. Office hours of departments and courts; official canvass; list of registered plumbers. There shall be published in each issue of the City Record a statement of the hours during which all public offices in the city are open for business, the time when each court regularly opens and adjourns and the location of such offices.

and courts. There shall be published in the City Record once in each year a statement of the canvass of votes cast at every election, a list of the registered plumbers in the city and any official matter or report ordered by the mayor. There shall be published in the City Record monthly as a supplement in pamphlet form all ordinances which have taken effect during the preceding calendar month with the date of taking effect.

§ 1128. Designation of law journal. The mayor may designate in writing a law journal published in the city, in which, or in the daily law journal designated under section ninety-seven of article four of chapter thirty of the consolidated laws, known as the judiciary law, may at all times thereafter be published every notice and advertisement in legal proceedings which may be required by law to be published in one or more papers in the city; and the publication of any such notice or advertisement in said law journal shall be of the same force and effect as if published in said daily law journal.

§ 1129. Notices of auction sales. The mayor shall designate not less than two daily newspapers published in each county for the publication of notices of auction sales made by licensed auctioneers. If two daily newspapers be not published in a county he shall designate for such purpose at least two newspapers published therein of which one shall be a daily if there be one published in the county. The manner of sale, contents and publication of notice, and the kinds of goods notice of the sale of which shall be required to be published in newspapers so designated shall be as prescribed by ordinance.

## CHAPTER XXXIII.

### BOROUGH OFFICERS.

- Article 1. Borough president. (§§ 1130-1139.)  
2. Bureau of buildings. (§§ 1145-1158.)  
3. Coroners. (§§ 1160-1169.)

### ARTICLE 1.

#### BOROUGH PRESIDENT.

- Section 1130. Borough president.  
1131. Vacancies; how filled.  
1132. Executive staff.  
1133. Superintendent of buildings.  
1134. Borough halls.

**Section 1135. Jurisdiction and duties of borough president.**

1136. Opening and replacing pavements; permits; funds.

1137. Drains ordered by health department.

1138. Temporary sewers.

1139. Private sewers.

**Section 1130. Borough president.** The head of the department shall be the borough president. A borough president shall be chosen by the voters of each borough, for a term of four years, at the election at which a mayor is chosen for a full term. The borough president shall receive an annual salary of seven thousand five hundred dollars.

§ 1131. Vacancies; how filled. Within ten days after a vacancy occur in the office of borough president, the mayor shall call and preside at a meeting of the aldermen elected from the borough. The vacancy shall be filled by a majority vote of all the aldermen elected from the borough, but in the event of a tie the mayor shall cast the deciding vote. The term of office of the person so chosen shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election held not less than thirty days after the vacancy occur.

§ 1132. Executive staff. Each borough president shall appoint a commissioner of public works, a superintendent of buildings and a secretary of the borough, and may appoint an assistant commissioner of public works. In case of a vacancy in the office or of the absence or disability of the borough president the commissioner of public works shall act as borough president. The borough president may by written instrument filed in his office delegate any of his administrative powers to the commissioner or assistant commissioner of public works.

§ 1133. Superintendent of buildings. The superintendent of buildings shall be an architect or builder of at least ten years' experience.

§ 1134. Borough halls. There shall be a hall or public building in each borough in which shall be located the office of the borough president and such bureaus and branch offices of city departments as may be practicable.

§ 1135. Jurisdiction and duties of borough president. Except as otherwise provided in this act, each borough president within the borough shall have the jurisdiction and duty of

1. Opening, closing, extending, widening, constructing, repairing, improving, regulating, grading, regrading, curbing, recurring, flagging and guttering streets and laying crosswalks;

2. Paving and repaving, resurfacing and relaying pavements;

3. Laying or relaying railroad and street surface railway tracks in a public street, and may prescribe the form of rail, character of foundation and method of construction to be used in such work and the restoration of the pavement or surface of the street after completion;

4. Filling sunken lots, digging down lots and licensing vaults under sidewalks;

5. Removing encumbrances;

6. Issuing permits for obstructing or disturbing the surface of streets;

7. Constructing and maintaining bridges and tunnels within the borough forming portions of the streets thereof, except bridges within the jurisdiction of the bridge department;

8. Constructing, maintaining and cleaning public sewers, drains, cesspools and cisterns;

9. Constructing, repairing, caring for and maintaining public markets;

10. Constructing, repairing, cleaning and maintaining public buildings;

11. Caring for and cleaning offices leased or occupied for public purposes;

12. Constructing and maintaining public baths, urinals and comfort stations, and the placing of signs indicating the names of streets;

13. Certifying to the comptroller the expense incurred on account of an improvement within thirty days after the completion and final acceptance of the work;

14. Supplying the supreme court, held within the borough and the justices thereof, with room, furniture, heat, light, books, stationery and other supplies and, upon order of the court, jurors kept together during the progress of a trial or after retirement for deliberation with food and lodging.

§ 1136. Opening and replacing pavements; permits; funds. No opening or excavation shall be made in a street, nor shall a pavement be removed or the surface of a street disturbed until a permit shall have been obtained from the borough president. The replacing of excavated material in an opening and a temporary relaying of the pavement shall be done by the permittee, but

under the supervision of an inspector designated by the borough president. The permanent relaying of the pavement shall be done by employees of the borough president or by those having contracts with the borough president for such work. Prior to the issuance of any such permit the borough president shall require the deposit of such sum as he deem necessary to cover the permanent restoration of the pavement and backfill and paving inspection and all other expenses incident thereto. Schedules of the amounts so required to be deposited for different classes of work shall be kept on public file in the office of the borough president and may be amended by him from time to time as he may deem necessary. If an opening be made by a city department, no deposit shall be required but the fund for replacing pavements shall be reimbursed for the cost of the restoration by transfer by the comptroller of funds of the department upon the certificate of the borough president. If upon completion of the work it appear that the amount deposited as aforesaid was an overcharge, the permittee shall be entitled to a proportionate refund; but if the work of inspection and pavement restoration shall not have been covered by the deposit, a statement of the deficit shall be submitted to the permittee and if payment of such deficit be not made within ten days the borough president shall transmit the claim to the corporation counsel who shall proceed to collect it, and the borough president may refuse to grant a further permit to a party in default until such claim shall have been satisfied. There shall be for each borough in the office of the chamberlain a special continuing fund, to be known as the fund for replacing pavements, to which the amounts deposited, transferred or collected as aforesaid in each borough shall be credited and from which the expense to the city of any work done under such permits shall be paid by the chamberlain on the order of the comptroller and certificate of the borough president. In case such fund shall at any time become depleted, the comptroller shall issue special revenue bonds to replenish it. This section shall not apply to a street railroad corporation unless expressly agreed to between such corporation and the borough president, but all street operations of such corporation which involve the disturbance of the pavement shall be subject to inspection under the direction of the borough president.

§ 1137. Drains ordered by health department. When a borough president receive an order from the health department requiring the drainage of lands, accompanied by a map showing the

location of the proposed drains and the land required therefor, he shall prepare and present to the board of estimate plans therefor with an estimate of cost, together with such order and map. Upon the acquisition of the land and appropriation of the money required to defray the cost of the improvement the borough president shall promptly comply with the order.

§ 1138. Temporary sewers. When it is necessary to construct a sewer to prevent damage to property or abate a nuisance and impracticable to construct the same immediately in accordance with a plan already adopted, the borough president with the approval of the board of estimate may construct a temporary sewer therefor and the cost thereof shall be assessed upon the property benefited. Such assessments shall be levied and collected as are other assessments for local improvements not confirmed by a court of record.

§ 1139. Private sewers. A permit for the construction of a sewer by private property-owners may be granted as follows:

1. When there shall have been filed with the borough president construction plans and specifications therefor conforming to the adopted plan for the sewerage and drainage of the district and a duplicate copy of the contract for the construction showing the cost, together with a guaranty, satisfactory to the borough president for the payment of the expense of inspection, upon approval of such plans, specifications and contract, by the borough president he may issue a permit for the construction of the sewer and upon its completion the borough president shall certify the cost of construction, including supervision and inspection, to the board of assessors, and they shall assess the cost according to benefit upon the several parcels of property abutting on the street or part thereof through which the sewer shall have been constructed. The board of assessors shall report such assessment to the borough president. The borough president shall grant permits for connections with the sewer only to such owners or occupants of abutting property as shall present to him satisfactory proof of payment to the parties who paid for the sewer of the proportionate part of its cost assessed to the property. Except for the purpose of supervision and use by the city, such sewer shall be the private property of the persons who shall have paid for its construction until all of the assessments therefor shall have been paid. When such assessments shall have been fully paid, the sewer shall be the property of the city and part of its sewer system.

2. When there shall have been filed with the borough president construction plans and specifications therefor and a duplicate copy of the contract for its construction conforming to the adopted plan for the sewerage and drainage of the district showing its cost, together with a guaranty satisfactory to the borough president for the payment of the cost of construction, supervision and inspection, upon approval of the plans, specifications and contract by the borough president he may issue a permit for the construction of the sewer. The borough president may grant permits for connections with the sewer when constructed upon such terms and conditions as the board of estimate may fix as equitable between the parties who shall have paid for the sewer and those applying for such permits. When constructed the sewer shall be the property of the city and constitute a part of its sewer system.

## ARTICLE 2.

### BUREAU OF BUILDINGS.

**Section 1145.** Bureau of buildings.

1146. Jurisdiction of superintendent.

1147. Inspectors.

1148. Power to permit variation from law or ordinance.

1149. Appeals; board of examiners.

1150. Procedure on appeal.

1151. Removal of buildings or structures.

1152. Superintendent may prohibit occupancy.

1153. Right of entry.

1154. Permits for buildings; notice to be given tax department.

1155. Officers and employees forbidden to engage in building trades.

1156. Building code.

1157. City architect's jurisdiction not impaired.

1158. Height of buildings; restrictions as to ordinances regulating.

**Section 1145.** Bureau of buildings. There shall be a bureau of buildings in each borough the head of which shall be the superintendent of buildings.

§ 1146. Jurisdiction of superintendent. The superintendent of buildings shall, within the borough, have jurisdiction and control of the construction, alteration, plumbing, drainage and re-



removal of all buildings and other structures completed or in the course of construction including the regulation of foundations, excavations or dangerous earth or rock conditions, except tenement houses, water front property including buildings and structures thereon, also bridges, tunnels and subways and structures appurtenant thereto, other than buildings. He shall determine all questions relative to plans, construction and materials in the construction or alteration of buildings or structures within his jurisdiction and require the same to comply with statute and ordinances and the rules and regulations of the bureau relating thereto. No new fittings for the distribution of water in or outside of buildings shall be approved, except in conformity with standards, if any, established by the department of water, gas and electricity.

§ 1147. Inspectors. The superintendent of buildings shall appoint a chief inspector of buildings who shall be an architect, builder or engineer of at least ten years' experience. In case of absence or disability of the superintendent the chief inspector shall possess his powers and perform his duties. The superintendent may appoint inspectors who shall be architects, engineers, carpenters, plumbers, iron workers, masons or builders of at least five years' experience.

§ 1148. Power to permit variation from law or ordinance. If there be practical difficulties in carrying out the strict letter of a statute, ordinance, rule or regulation relating to the construction, alteration, plumbing, drainage or removal of a building or structure, the superintendent with the approval of the borough president may permit a variation from or modification of its requirements so that the spirit of the statute, ordinance, rule or regulation shall be observed, public safety secured and substantial justice done. The owner of a building or structure or his agent may petition the superintendent for such variation or modification, stating the grounds therefor. The superintendent shall grant a hearing thereon upon the date fixed therefor and his decision when approved by the borough president shall be final. A copy of the petition and decision shall be filed in the bureau and, if the petition be allowed, a certificate stating the reasons for such allowance, approved in writing by the borough president, shall be issued to the superintendent.

§ 1149. Appeals; board of examiners. If a superintendent reject or refuse to approve the plan, construction or materials proposed for the construction or alteration of a building or structure or when it is claimed that the rules and regulations of the

bureau or the provisions of statute or ordinance do not apply or notwithstanding that they apply that an equally good or more desirable form of construction can be employed with satisfactory result, the owner or his agent may appeal from the decision of the superintendent if the amount involved exceed the sum of one thousand dollars. Such appeal shall be heard by a board of examiners, consisting of the fire chief and the following members: One member of the New York chapter and one member of the Brooklyn chapter of the American Institute of Architects, one member of the New York Board of Fire Underwriters, two members of the Mechanics' and Traders' Exchange of the city of whom one shall be a master mason and one a master carpenter, one member of the Society of Architectural Iron Manufacturers of the city and one member of the Real Estate Owners and Builders' Association of the city who shall be an architect or builder. Each member, other than the fire chief, shall be appointed annually by the organization represented by him and his appointment shall be certified by a secretary of such organization to the mayor, comptroller and superintendent of buildings of each borough. The board shall annually from its members choose a president. It may appoint and may remove a secretary, an assistant secretary and such other subordinates as may be needed and fix their salaries and compensation. Each member of the board, including the fire chief, shall receive ten dollars and the president an additional five dollars for each day's attendance at its meetings. The expenses of the board shall be paid by the city and provided for in the budget. The board shall meet upon notice from a superintendent of buildings or upon call of the president of the board.

§ 1150. Procedure on appeal. An appeal shall be taken within ten days after the entry of decision upon the records of the bureau by filing with the bureau and with the clerk of the board of examiners copies of all the papers filed with the bureau upon the application for the building permit. The board shall fix a day, within a reasonable time, for the hearing of the appeal, and upon the hearing the appellant may appear in person or by agent or attorney. No member of the board shall pass upon any question in which he is personally interested and at least five affirmative votes shall be necessary to reverse or modify the decision appealed from. The decision of the board shall be rendered promptly and be final.

§ 1151. Removal of buildings or structures. A superintendent of buildings may order the destruction, alteration, repair or

removal of a building or structure or part thereof which exists in violation of statute or ordinance or which by reason of structural defects or other conditions or circumstances is in his judgment dangerous to life; or he may order the removal of the debris of fallen or burned buildings if he know or believe that persons are buried thereunder. If the order be not obeyed within twenty-four hours after service of notice upon the owner, agent or occupant of the building or structure or if there be imminent danger that the building or structure or part thereof may fall threatening public safety or obstruction of a street or if he know or believe that persons are buried under the debris or ruins of a burned or fallen building, the superintendent shall cause such building or structure or part thereof to be shored up or made safe or the building or structure to be destroyed and removed or the debris or ruins of a burned or fallen building to be removed. Notice to comply with the order shall be served, subsequent proceedings in case of assent to the order shall be had or taken, or in case of refusal or neglect to comply with the order a survey of the building, structure or premises and all rights, remedies and procedure in connection therewith including trials, orders, precepts, taxation of costs and judgments shall be had and taken in the supreme court, which is hereby given jurisdiction thereof, by the officers and in the manner provided therefor by the code of ordinances. Enforcement of collection of all expenses connected therewith may be enforced by sale of the premises as provided in the code of ordinances and the city may maintain an action against the owner or lessee of the real property upon which the building or structure or part thereof or debris or ruins is situated for the recovery of the deficiency, if any, of such expenses remaining after such sale. All expenses incurred in connection with any such destruction, alteration, repair or removal of a building, structure, debris or ruins or the enforcement of such an order and the proceedings had subsequent thereto shall, from the time of the filing of the notice of pendency provided for in the code of ordinances in the office of the county clerk of the county in which the building, structure or premises is situated be a lien thereon having priority over all other liens except taxes and assessments, and be enforced by sale of the premises as hereinbefore provided. The expense incurred by the department shall be defrayed out of the proceeds of special revenue bonds.

§ 1152. Superintendent may prohibit occupancy. If in the judgment of the superintendent of buildings a building or struc-

ture or part thereof by reason of structural defects or other conditions or circumstances be unsafe for occupancy, he may summarily order and enforce the temporary suspension of the use or occupancy of or access to the building until the same be rendered safe for occupancy and the enforcement of such order shall not be stayed by survey proceedings. Such order shall be served upon the owner, agent or occupant of the building or structure. The superintendent may call upon the police department to assist in enforcing compliance with the order.

§ 1153. Right of entry. The superintendent of buildings, a chief inspector or an inspector may enter, examine or inspect a building or structure or part thereof or place therein completed or in the course of construction, provided that no such entry be made into an occupied building or structure between sunset and sunrise, except by the superintendent, chief inspector, an inspector or pursuant to a written order of the superintendent or chief inspector specifying the reason therefor, which order shall be first exhibited to and a copy served upon the occupant of the building or structure or part thereof to be entered and examined.

§ 1154. Permits for buildings; notice to be given tax department. When a permit shall have been granted for the construction, alteration or removal of a building or structure, the superintendent shall within ten days notify the tax department of the granting of such permit, designating the lot and block or tax number upon the tax map of the premises and the estimated cost of the improvement.

§ 1155. Officers and employees forbidden to engage in building trades. An officer or employee of the bureau shall not engage or be interested as principal, agent or stockholder in business as an architect, civil engineer, carpenter, plumber, iron worker, mason or builder or in the manufacture or sale of articles used in the construction of buildings.

§ 1156. Building code. The building code now in force, subject to amendment and repeal, is hereby continued as a chapter of the code of ordinances until superseded and shall have the force and effect of statute, except that it may be amended or repealed as is an ordinance. In the preparation or revision of the building code the board of aldermen may employ experts and fix their compensation.

§ 1157. City architect's jurisdiction not impaired. This article shall not be construed to abridge or limit the powers and duties of the city architect in respect of the preparation of plans

for and the supervision of work upon public buildings or structures, except that all public buildings or structures shall be required by the bureau to conform in all respects to the provisions of all statutes, ordinances and rules and regulations of the bureau regulating the construction, alteration or removal of buildings.

§ 1158. Height of buildings; restrictions as to ordinances regulating. The height of buildings and structures to be erected in the city may be restricted and regulated by ordinance, provided that when an ordinance on such subject be introduced the board of aldermen shall provide for public hearings thereon before the board or a committee thereof and no such ordinance shall be passed except by majority of all of the members of the board and shall not take effect until approved by the board of estimate by a vote of members entitled to cast at least twelve votes. Such an ordinance may be limited in its application to a part of the city.

### ARTICLE 3.

#### CORONERS.

Section 1160. Coroners.

1161. Vacancies; how filled.

1162. Powers and duties of coroners.

1163. Coroner's physicians.

1164. Coroner's office and clerical staff.

1165. Experts.

1166. Filing of transcripts of testimony and copies of verdicts.

1167. Records.

1168. Interference with dead body prohibited.

1169. Unusual or suspicious deaths to be reported.

Section 1160. Coroners. At a general election at which a mayor shall be chosen for a full term four coroners shall be elected in and for each of the boroughs of Manhattan and Brooklyn and two in and for each of the other boroughs. The term of office of coroner shall be four years. The coroners of a borough shall be a board of coroners.

§ 1161. Vacancies; how filled. Within ten days after a vacancy occur in the office of coroner, the mayor shall call and preside at a meeting of the aldermen elected from the borough. The vacancy shall be filled by a majority vote of all the aldermen elected from the borough, but in the event of a tie vote the mayor shall cast the deciding vote. The term of office of the person so

chosen shall be until the first day of January next succeeding the first general election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the first general election held not less than thirty days after the vacancy occur.

§ 1162. Powers and duties of coroners. Except as otherwise provided in this act, coroners shall have the powers and perform the duties prescribed by statute for coroners in counties of the state. The coroners in the boroughs of Manhattan and Brooklyn shall keep open their offices on every calendar day with a clerk in constant attendance day and night.

§ 1163. Coroner's physicians. The board of coroners of each borough may appoint coroner's physicians for the borough equal in number to the coroners therein. Each coroner's physician shall be a qualified physician and a resident of the borough in and for which he shall have been appointed. A vacancy in the office of coroner's physician shall be filled by the board of coroners of the borough in which the vacancy exists. The board of coroners of a borough may remove for cause any coroner's physician therein. A coroner's physician shall make such inquiry, examination, inspection or autopsy as may be required by a coroner or by ordinance and testify in relation thereto.

§ 1164. Coroner's office and clerical staff. The board of coroners of each borough shall have an office therein and may appoint a clerk and a stenographer. The stenographer shall take and transcribe complete minutes of all coroner's inquests.

The board of coroners in each borough may designate in writing a clerk or clerks who, during the absence of all of the coroners, may, subject to rules and regulations established by the board of coroners with the approval of the mayor, issue permits or orders authorizing or directing the removal of the bodies of persons who have died under circumstances which are required to be investigated by a coroner or a coroner's physician.

§ 1165. Experts. A coroner, with the written consent of the district attorney of the county approved by a justice of the supreme court within the judicial district may employ such experts as he may require.

§ 1166. Filing of transcripts of testimony and copies of verdicts. Each coroner shall file in the coroner's office of the borough and with the district attorney of the county a transcript of the testimony and proceedings at an inquest held by him.

§ 1167. Records. There shall be kept in the coroner's office in each borough a record alphabetically indexed of the name, if known, of every deceased person reported, the date and cause of death, the place where the body was found, the name of the coroner assuming charge thereof, the date and place of inquest, a transcript of the testimony and proceedings at the inquest, the findings of the jury and such other facts as may be required by law or ordinance.

§ 1168. Interference with dead body prohibited. Where a coroner's inquest is authorized by law, a dead body shall not be embalmed, removed or disturbed without a permit from a coroner or a coroner's physician or a coroner's clerk authorized to issue permits.

§ 1169. Unusual or suspicious deaths to be reported. The death of a person under unusual or suspicious circumstances shall be immediately reported to a coroner of the borough or to the coroner's office or to a police officer.

## CHAPTER XXXIV.

### LOCAL IMPROVEMENTS.

- Article 1. Organization of local boards. (§§ 1170-1173.)
2. Powers and procedure. (§§ 1180-1185.)
  3. Assessments by board of assessors. (§§ 1195-1208.)
  4. Vacating and modifying assessments. (§§ 1215-1220.)

### ARTICLE 1.

#### ORGANIZATION OF LOCAL BOARDS.

Section 1170. Local improvement districts.

1171. Local boards.

1172. President to call meetings of local board.

1173. Meetings; secretary; quorum.

Section 1170. Local improvement districts. The number and boundaries of local improvement districts may be changed by ordinance. The local improvement districts as now constituted shall continue until so changed. Local improvement districts shall be coterminous with one or more aldermanic districts.

§ 1171. Local boards. There shall be in each local improvement district a board of local improvements to be known as the local board. Each local board shall consist of the borough president of the borough in which the district is situated

and each member of the board of aldermen who represents an aldermanic district within such local improvement district. The members of the local board shall serve as such members without compensation. The jurisdiction of each local board shall be confined to local improvements the expense of which is, in whole or in part, chargeable upon the property of the district or a part thereof. If a local improvement which may be proposed by a local board embrace the territory or affect property in more than one local improvement district, the members of the local boards of all the districts affected shall for all proceedings relating to such improvement constitute the local board for the purposes thereof.

§ 1172. President to call meetings of local board. The borough president of each borough shall be the president of each local board in the borough and shall call all meetings of the local boards thereof and shall give reasonable notice of meetings to the members.

§ 1173. Meetings; secretary; quorum. Meetings of each local board shall be held in the hall or public building of the borough in which the borough president has his office. The borough president shall call a meeting whenever in his opinion the public interests require or when he receives the written request of a member of a local board. The secretary of the borough shall act as the secretary of each local board without additional compensation. He shall keep a record of all resolutions and proceedings of the local board, file the same in the office of the borough president, certify the same and discharge such other duties as may be prescribed by statute or ordinance or by the borough president or the local board. The action of a local board shall be by resolution.

## ARTICLE 2.

### POWERS AND PROCEDURE.

Section 1180. Local improvements.

1181. Petition for local improvement.

1182. Duty of president on receipt of petition.

1183. Local board; proceedings after petition.

1184. Action of borough president on resolution of a local board.

1185. Board of estimate to act; assessment of expenses.

Section 1180. Local improvements. A local board, subject to the restrictions of this chapter, shall have power



1. To propose to the board of estimate a local improvement for any of the following purposes within the district: To construct tunnels and bridges; acquire title to real property for parks, streets, sewers, tunnels and bridges and approaches to either; open, close, extend, widen, improve, grade, pave, regrade, repave, resurface, curb, recurb, flag, reflag and repair or otherwise improve streets and construct sewers, gutters, receiving basins and inlets; dig down lots or fill in sunken lots. 2. To authorize, without the approval of the board of estimate, local improvements for such purposes which do not involve the acquisition of real property, the expense of which is to be assessed wholly upon property within the district deemed to be benefited and the estimated expense of which in any one calendar year shall not exceed in the aggregate the amount limited therefor by the board of estimate.

§ 1181. Petition for local improvement. Subject to the restrictions of this chapter, a local board may propose or authorize a local improvement within its district only upon the written petition therefor, filed with the secretary of the borough, subscribed by a member of the local board or by one or more of the owners of property within the probable area of assessment as shall appear by the petition or by a map or plan subjoined thereto.

§ 1182. Duty of president on receipt of petition. When a petition for a local improvement within the jurisdiction of a local board shall have been filed with the secretary of the borough, the borough president shall appoint a time for the meeting of the proper local board, not more than fifteen days thereafter, for submission of such petition and shall cause a notice to be published in the City Record that such petition has been presented to him and is on file in the office of the secretary of the borough for inspection and of the time and place of such meeting which time shall not be less than ten days after the first publication of the notice.

§ 1183. Local board; proceedings after petition. The local board, after the submission of such petition and consideration of the same, may by resolution propose or authorize the local improvement petitioned for.

§ 1184. Action of borough president on resolution of a local board. A resolution of a local board proposing or authorizing a local improvement shall, upon its adoption by the board, be certified by its secretary and be presented to the borough president. If he approve it, he shall sign it and return it to the secretary, and it shall then take effect. If he disapprove it, he shall return

it to the secretary with his objections which shall be entered in the minutes of the board. The board may, within ten days after the return of a resolution disapproved by the borough president, reconsider and may readopt the same. If the resolution be re-adopted by the board, it shall take effect. Upon such reconsideration but one vote shall be had. If, within ten days after the resolution shall have been presented to the borough president, he do not return it approved or disapproved, it shall take effect as if he had returned it approved. At any time prior to the return of a resolution by the borough president the board may recall the same and may reconsider its action thereon.

§ 1185. Board of estimate to act; assessment of expenses. If a local board propose to the board of estimate a local improvement, the secretary of the borough shall transmit a copy of the resolution to the board of estimate which shall promptly consider and return the same with its approval or disapproval. No local improvement proposed by a local board shall be authorized by the board of estimate until there shall have been presented to it an estimate in writing, in such detail as it may direct, of the cost of the proposed improvement and a statement of the assessed value according to the last preceding tax-roll of the real property included within the probable area of assessment.

### ARTICLE 3.

#### ASSESSMENTS BY BOARD OF ASSESSORS.

Section 1195. Board of assessors.

1196. Expense of local improvements not borne by city or borough to be assessed.

1197. Board of revision of assessments; composition.

1198. Powers and duties of board of revision.

1199. Certificate of comptroller.

1200. Assessments not to exceed one-half the value.

1201. Pavements.

1202. Description of property.

1203. Notice of completion of assessments.

1204. Assessments for grading streets and other property with material excavated in making other public improvements.

1205. Reassessment.

1206. Assessments for water front improvements.

1207. Award of damages for change of grade.

1208. Payment of awards; action for.

Section 1195. Board of assessors. There shall be a board of assessors consisting of three persons to be appointed by the mayor. It shall appoint a secretary. The board shall make all assessments for local improvements not required to be confirmed by a court of record.

§ 1196. Expense of local improvements not borne by city or borough to be assessed. The board of assessors shall assess upon the property deemed by it to be benefited in proportion to the benefit the expense determined by the board of estimate not to be borne by the city or a borough of a local improvement, the assessment for which is not required to be confirmed by a court of record.

§ 1197. Board of revision of assessments; composition. There shall be a board of revision of assessments to consist of the chamberlain, corporation counsel and president of the tax department. Upon written designation filed with the secretary of the board of assessors the chamberlain may be represented in the board by a deputy, the corporation counsel by an assistant and the president of the tax department by a tax commissioner.

§ 1198. Powers and duties of board of revision. The board shall have power

1. To hear and consider on the merits an assessment made by the board of assessors to which objection is made;
2. To take proof and testimony in relation to such an assessment;
3. To confirm such an assessment;
4. To revise and correct such an assessment and then confirm the same;
5. To return such an assessment to the board of assessors for revision and correction in such respects as it determine and then to confirm the same.

If such an assessment shall not have been confirmed, or revised and corrected and confirmed, or returned for revision and correction within thirty days after it shall have been presented to the board at a meeting thereof for confirmation it shall be deemed confirmed at the expiration of such period. An assessment confirmed as provided in this section shall be returned by the board of revision to the chamberlain for entry and collection.

§ 1199. Certificate of comptroller. The assessment shall be made by the board of assessors on the certificate of the comptroller of the total amount of all expenditures actually incurred by the city on account of the improvement, including the interest upon the several instalments advanced or payments made

on account of such work from the time of such payments or advances to a day sixty days after the date of the certificate, in accordance with the determination of the board of estimate as to the proportion to be borne by the property deemed benefited. The board of assessors shall assess upon the property deemed by it to be benefited the amount so certified.

§ 1200. Assessments not to exceed one-half the value. The board of assessors shall not assess upon any real property improved or unimproved more than one-half its fair value before the improvement.

§ 1201. Pavements. Street pavements shall be divided into two classes, permanent pavements and preliminary pavements. The board of estimate shall from time to time determine and designate the kinds of pavement to constitute each class and its determination shall be final. If a pavement when laid be a permanent pavement, it shall not thereafter be deemed to be a preliminary pavement.

No street or portion thereof that shall have been paved with a permanent pavement the whole or any part of the expense of which shall have been paid by the owners of property on the line of the improvement shall be repaved as a local improvement unless the owners of at least one-half in linear feet of the property on the line of the improvement petition for the same as a local improvement.

If a street or portion thereof heretofore or hereafter paved or repaved with a preliminary pavement be repaved, it shall be repaved with a permanent pavement as a local improvement unless the owners of at least one-half in linear feet of the property on the line of the improvement petition for a repaving with preliminary pavement as a local improvement.

When a permanent pavement be laid to replace a preliminary pavement or a repavement with a preliminary pavement the expense of which shall have been assessed in whole or in part upon property on the line of the improvement, only the remainder of the cost of such permanent pavement shall be assessed upon property on the line of the improvement after deducting the expense of such preliminary pavement or repavement and the part of such cost provided to be borne by the city or a borough. No part of the expense of paving with a preliminary pavement shall be deducted from the expense of repaving with a preliminary pavement as a local improvement.

The provisions of this section shall not apply to sidewalks and shall not be construed to relieve or release the owners of property, grantees of the city of New York or their successors in interest, of or from any covenants to pave or repave or otherwise physically improve any street or streets.

§ 1202. Description of property. The board of assessors shall describe the property assessed by the numbers or other designations used to identify it on the tax books.

§ 1203. Notice of completion of assessments. The board of assessors after completing an assessment shall publish daily in the City Record for at least six days successively a notice describing the area proposed to be assessed notifying all persons interested to present objections, if any, in writing to the board within thirty days from the date of such notice and specifying a time and place after the expiration of said period for hearing such objections. If, after such hearing, the board shall not make the alterations requested by those objecting or having altered the assessment there still be objections it shall present the proposed assessment with the objections to the board of revision of assessments, which shall hear and consider the same at a meeting of which at least ten days' notice shall be published in the City Record. If no objection be received or if the board of assessors alter the assessment so as to satisfy the objectors, the board of assessors shall forthwith declare the assessment confirmed and shall transmit the same to the chamberlain for entry and collection. An assessment so confirmed shall be of the same force and effect as if confirmed by the board of revision of assessments.

§ 1204. Assessments for grading streets and other property with material excavated in making other public improvements. When material excavated in the course of a public improvement shall, pursuant to the terms of a public contract, be deposited and utilized in filling a street or otherwise under the direction of the officer having charge of the work, such officer shall certify to the board of estimate the value of such material and other necessary expense of its utilization; and the board of estimate shall determine what proportion, if any, of such value and expense shall be borne by the city and certify to the board of assessors the aggregate amount of such value and expense together with its determination; and the board of assessors shall assess on the property deemed benefited such aggregate or such portion thereof as the board of estimate shall have determined not be borne by the city.

§ 1205. Reassessment. If the lien of an assessment for a local improvement upon real property be for any reason unenforceable or if the sale of the lien thereof shall have been vacated or set aside such real property may be again assessed in the manner provided by law and the amount so assessed shall be a lien on said real property until paid and shall be collectible in the manner provided by law for the collection of assessments for local improvements. All proceedings to make a new assessment shall be at the expense of the city.

§ 1206. Assessments for water front improvements. The expense of conforming to any order of the commissioner of docks assessable upon the property deemed benefited shall be certified by the commissioner to the board of assessors and shall be assessed by the board of assessors upon the water front property repaired or adjacent to which the water may have been deepened and benefited thereby in proportion, as nearly as may be, to the benefit thereto. Every such assessment shall be subject to review by the board of revision of assessments and shall be binding and conclusive upon the owners and a lien upon the property assessed and shall be collected and enforced as an assessment for a local improvement.

§ 1207. Award of damages for change of grade. Where a change of grade of a street has been heretofore made the liability for and the right to receive compensation for damages caused thereby shall be governed by the laws in force at the time of such change. Hereafter there shall be no liability to abutting owners for originally establishing a grade or for changing an established grade, except where the owner of the abutting property has subsequent to such establishment of grade constructed buildings or made other improvements upon the property in conformity with such established grade and such grade is changed after such buildings or improvements have been made, in which case the damages occasioned to such buildings or improvements shall be ascertained and assessed. The damages occasioned by a change of grade shall be ascertained and assessed in connection with and as a part of the expense of grading, paving, regulating or otherwise improving the street in conformity with the grade as changed. After the certificate of the expense of such improvement shall have been received by the board of assessors, the board of assessors shall cause to be published in the City Record for at least six days successively a notice to all persons claiming to have been damaged by the change of grade to present

in writing to the secretary of the board their claims at a place and time where and when the board will receive evidence of the nature and extent of such damage. After hearing and considering such evidence the board shall make awards for the damage sustained, if any, as it may deem proper. The amount of said award shall be included in the assessment for grading, paving, regulating or otherwise improving the street as a part of the expense thereof. This section shall not authorize the making of an award for loss or damage caused by a change of grade in any case in which an award could not be legally made under the laws existing on the thirty-first day of December, eighteen hundred and ninety-seven. Interest on the amount of an award for damages for change of grade shall be allowed only from the date on which such amount shall have been fixed by the board of assessors. This section shall not affect the powers of any commission acting under any other statute.

§ 1208. Payment of awards; action for. The city shall, within four months after confirmation of an assessment including awards made pursuant to the provisions of the next preceding section, pay the same; and in case of failure to pay the same the persons entitled thereto may, after demand, recover their awards by action. If any such award be paid to a person not entitled thereto the person to whom the same ought to have been paid may sue for and recover the same with interest and costs as money had and received to his use from the person or persons to whom the same shall have been paid. If the name of an owner be not set forth in the report of the assessors, or if an owner be under legal disability, or be absent from the city, or after diligent search cannot be found, or his title to the award be disputed the city may pay the award to the chamberlain to be subject to the direction of the court, and such payment shall be as valid and effectual as if made to the owner.

#### ARTICLE 4.

##### VACATING AND MODIFYING ASSESSMENTS.

Section 1215. Remedies limited.

1216. Procedure.

1217. Assessments not to be affected by certain irregularities.

**Section 1218. Power of court to vacate or reduce assessments limited and qualified.**

1219. When proceedings to be brought.

1220. Assessment defined.

**Section 1215. Remedies limited.** No action to vacate an assessment or remove a cloud upon title by reason thereof or to recover moneys paid for an assessment, and no certiorari to review a determination with respect to an assessment shall be maintained. Owners of property shall with respect to assessments and the recovery of moneys paid for assessments be confined exclusively to the proceedings for which provision is made in this act.

§ 1216. Procedure. If fraud or substantial error be alleged to have been committed in a proceeding relative to an assessment for a local improvement or in a proceeding to collect the same or it be alleged that an assessment was made without authority the party aggrieved may apply to a justice of the supreme court at special term or chambers for an order vacating or modifying the assessment. The justice shall, upon notice to the corporation counsel, hear the proofs and allegations. If it shall appear that, by reason of alleged fraud or substantial error or want of authority other than an irregularity specified in the next section, the expense of a local improvement has been increased, the justice may order the assessment upon the real property of the aggrieved party modified by deducting therefrom a sum bearing the same proportion to the assessment as the amount of the unlawful increase bears to the whole expense of the improvement. If such assessment shall have been reduced and there shall have been paid on account of the assessment a sum in excess of the amount of the assessment as reduced the justice may order such excess refunded. If it shall appear on the face of the proceedings or otherwise that an assessment, not confirmed by a court of record, was made without authority and that a parcel of property assessed has not received any benefit from the improvement, the justice may order the assessment as to such parcel vacated and canceled and the moneys paid thereon, if any, refunded. The order shall be filed in the office of the county clerk of the county in which the real property is situated, and after the filing of a certified copy thereof with the chamberlain he shall comply with the order.

§ 1217. Assessments not to be affected by certain irregularities. No assessment for a local improvement heretofore or hereafter made shall be vacated or modified by reason of any omission to advertise, or irregularity in advertising any resolution, notice or other proceeding relative to the improvement or bids therefor, or of the



omission of any officer to perform any duty, or of any technical irregularity; and all property deemed benefited by an improvement shall be liable to assessment for such improvement, and all assessments therefor shall be valid notwithstanding any such omission, irregularity, defect or technicality. No assessment shall be vacated by reason of fraud or irregularity in the proceedings to collect the same by sale of the tax lien therefor; but, upon proof of such fraud or irregularity, the sale shall be vacated and rights of the owners of the property assessed and of the city shall be the same as if the sale had not been made.

§ 1218. Power of court to vacate or reduce assessments limited and qualified. The court shall not reduce an assessment for a local improvement except to the extent that the same may be shown to have been increased in dollars and cents by reason of fraud or substantial error or want of authority; and in no event shall an assessment be reduced below the fair cost of the improvement, with interest at the rate of three per centum per annum from the date of confirmation to the date of the final order of reduction and seven per centum thereafter.

§ 1219. When proceedings to be brought. All proceedings to vacate or modify assessments must be brought within one year after the confirmation thereof.

§ 1220. Assessment defined. The word "assessment," wherever used in this article, means an assessment for a local improvement confirmed other than by a court of record.

## CHAPTER XXXV.

### CONTRACTS.

Section 1230. Power to contract; contracts how made.

1231. Contracts by public letting.

1232. Open market orders.

1233. Contracts other than open market orders without public letting.

1234. Additional work or supplies.

1235. Security; opening of bids.

1236. Defaults; reletting; modification of contracts.

1237. Comptroller's endorsement as to funds available.

1238. Deposit of bids.

1239. Payments to contractors.

1240. Payments on contracts not chargeable to street improvement fund.

Section 1241. Payments on contracts payable from street improvement fund.

1242. Contracts for pavements; conditions.

1243. Observance of prison law.

1244. Patented articles.

Section 1230. Power to contract; contracts how made. The head of each department, board, body or office may contract on behalf of the city for work or supplies only as provided in this act.

§ 1231. Contracts by public letting. When work is to be performed or supplies are to be furnished and the several parts of such work or supplies together involve an expenditure of one thousand dollars or more, the same shall be performed or furnished by contract made after due advertisement and public letting under regulations established by ordinance, except such work or supplies as may be specially authorized by statute or by the board of aldermen as provided in this chapter to be performed or furnished otherwise than by contract made after advertisement and public letting. Each such contract shall be in writing and shall be executed in the name of the city by the head of the department, board, body or office authorized to make the same and by the contractor. It shall be executed in triplicate. Within five days after such a contract shall have been executed one copy thereof shall be filed with the comptroller together with a copy of each resolution or ordinance, if any, authorizing the work or supplies; one copy shall be filed in the office of the head of the department, board, body or office making the contract; and the third shall be delivered to the contractor. Each such contract shall be founded on sealed bids, made after public notice duly advertised in the City Record, which notice shall be published for ten days. If the head of a department, board, body or office do not deem it for the interest of the city to reject all bids, he shall, without the consent or approval of any other officer, award in writing the contract to the lowest bidder and give written notice of the award to the comptroller and to such bidder, unless the board of estimate by the votes of members entitled to cast at least twelve votes decide that it is for the public interest that a bid other than the lowest be accepted. The terms of the contract shall be settled by the corporation counsel as an act of preliminary specification to the bid.

§ 1232. Open market orders. When work is to be performed or supplies are to be furnished and the several parts of such work or supplies together involve an expenditure of less than one thousand dollars the same may be contracted for without advertisement or public letting. The contract therefor, unless made by public letting, shall be in the form of a written order, signed by the head of department, board, body or office authorized to contract for the same; provided the head of the department, board, body or office contracting for or ordering such work or supplies certify that the same is necessary and that an appropriation has been made therefor. Such contract shall be termed "open market order."

§ 1233. Contracts other than open market orders without public letting. Contracts other than open market orders may be made without advertisement and public letting when authorized by a three-fourths vote of all the members of the board of aldermen.

§ 1234. Additional work or supplies. In a contract for work or supplies there may be inserted, in the discretion of the officer making it, a provision that additional work may be performed or supplies furnished for the purpose of completing such contract at an expense not exceeding five per centum of the estimated cost of the contract if such additional work or supplies be ordered by such officer; provided, however, that the prices agreed to be paid for such additional work be not greater than the unit prices, if any, specified in the contract, or otherwise the fair and reasonable value thereof.

§ 1235. Security; opening of bids. The bidder whose bid is accepted, in the manner prescribed and required by ordinance shall give security for the faithful performance of the contract. The adequacy and sufficiency of the security shall, in addition to the justification and acknowledgment, be approved by the comptroller. All bids shall be publicly opened by the officer advertising for the same and in the presence of the comptroller or his representative; but the opening of bids shall not be postponed if the comptroller, after notice, fail to attend or to be represented.

§ 1236. Defaults; reletting; modification of contracts. If the bidder whose bid has been accepted neglect or refuse to sign the contract or to give security within five days after written notice that the contract has been awarded to him, the proposed contract shall be readvertised and relet. If the work be abandoned by a contractor it shall be readvertised and relet, unless the board of aldermen by a three-fourths vote of all its members direct that

the work be performed otherwise than by contract let after advertisement and public bidding. No bid shall be accepted from or contract awarded to a person who is in arrears to the city upon debt or contract or who is a defaulter as surety or otherwise upon an obligation to the city. The board of estimate by the vote of members entitled to cast at least fourteen votes may upon the recommendation of the head of the department, board, body or office making the contract, abrogate, change, alter or modify, with the consent of the contractor, any contract when in its judgment public interests so require and may, upon like recommendation, when in its judgment it will be for the best interests of the city or circumstances warrant such action extend the time for performance of a contract or remit or release any penalty imposed under its provisions.

§ 1237. Comptroller's endorsement as to funds available. A contract hereafter made, the expense of the execution of which is not in whole or in part to be assessed upon property deemed benefited, shall not be awarded, entered into or become binding unless the comptroller endorse thereon his certificate that there remains unexpended and unapplied a balance of the appropriation or fund applicable thereto sufficient to pay the estimated expense of executing such contract, as certified by the officer making the same. The comptroller shall, if funds be available, make such endorsement upon each such contract so presented to him and shall set aside and retain for the payment thereof an amount sufficient to pay the estimated expense of fully executing the contract. Such endorsement shall be in any action sufficient evidence of such appropriation or fund. This section shall not apply to open market orders. The endorsement of the comptroller on a contract for the purchase of coal for a period of not more than one year shall be of the estimated expense of the coal to be furnished under such contract during the balance of the calendar year, as certified by the officer making the contract. On the first of January of the succeeding calendar year the comptroller shall make such endorsement as to the balance of coal to be delivered under the contract.

§ 1238. Deposit of bids. The officer advertising for bids for work or supplies shall require as a condition precedent to the reception or consideration of a bid a deposit by each bidder of money or of a certified check upon a state or national bank or a trust company in the city, drawn to the order of the comptroller and enclosed in the envelope containing the bid. Such deposit shall be

five per centum of the amount of the bond required to be given for the faithful performance of the proposed contract and shall be immediately transmitted to the comptroller for safe-keeping. The security deposits of all bidders shall be returned to them by the comptroller within five days after the award of the contract, except the deposit of the bidder to whom the contract shall have been awarded. His security deposit shall be returned when he shall have executed the contract and furnished the required bond. If an award be postponed for more than thirty days after bids shall have been received, interest on the amount of such deposit from the expiration of said period at the rate of two per centum per annum shall be paid by the city. If the bidder whose bid has been accepted refuse or neglect, within five days after written notice that the contract has been awarded, to execute the same or to furnish the required bond his deposit shall be forfeited to and retained by the city as liquidated damages, and shall be paid into the sinking fund of the city of New York.

§ 1239. Payments to contractors. All warrants upon vouchers duly audited and approved for payment of amounts due under contracts shall, by number or other description, refer to the voucher, the fund and the contract upon which the payment is to be made; and all checks drawn by the chamberlain on warrants duly approved and executed as payments on contracts may be mailed to the contractor at the address furnished by him or may be delivered to him or to his authorized representative, and when so mailed or delivered the endorsement by the contractor upon the check attached to such warrant which has been paid shall be considered a receipt from the contractor of the amount of such check on account of the contract.

The head of a department, board, body or office having in charge any work or the furnishing of supplies, within five days after the acceptance of such work or such supplies, shall file with the comptroller a final certificate of the completion and acceptance thereof, signed by the head of the department, board, body or office. The filing of such certificate shall be presumptive evidence that such work has been completed or supplies have been furnished according to contract.

§ 1240. Payments on contracts not chargeable to street improvement fund. Every contract for supplies or work, except contracts for public improvements chargeable against the street improvement fund, shall provide that the city pay to the contractor, from time to time as the supplies are furnished or as the

work progresses, upon the certificate of the head of the department, board, body or office having charge thereof, ninety per centum of the estimated value of the supplies furnished or work performed under the contract, the balance to be retained by the city until all the supplies shall have been furnished or all of the work shall have been performed under the contract and be included in the final payment to the contractor.

§ 1241. Payments on contracts payable from street improvement fund. When a contract for a public improvement, the cost of which shall be payable out of the street improvement fund, shall have been made and filed with the comptroller and work thereunder shall have been actually begun, there shall be paid to the contractor or to his assignee, from time to time as the work progresses, eighty-five per centum of the estimated value of the work performed under the contract until the same shall have been completed. The estimate of the value of any such work shall be signed by the borough president having charge thereof; and, within thirty days after the final completion and the filing of the final certificate with the comptroller or within sixty days after the expiration of the time within which according to the terms of the contract the city is required to accept such work, the comptroller shall pay to the contractor or to his assignee the balance due thereunder.

§ 1242. Contracts for pavements; conditions. The board of estimate may authorize contracts for asphalt or other pavements to be made with a guaranty of maintenance upon the part of the contractor for one or more years and a provision for the retention of a percentage of the amount to be paid until the expiration of such guaranty. The amount retained shall be paid within thirty days after the expiration of the guaranty, upon the filing of a certificate signed by the head of the department, board, body or office having the matter in charge that the terms of the contract and guaranty have been complied with.

§ 1243. Observance of prison law. The provisions of this act or of any statute requiring advertisements for bids or the awarding of contracts for work or supplies for any of the departments, boards, bodies or offices of the city, or a county shall not be applicable to public work which may be performed or supplies which may be furnished under the provisions of the prison law.

§ 1244. Patented articles. Except for repairs, patented pavements shall be advertised for, contracted for or purchased only under circumstances ensuring fair and reasonable opportunity for

competition the conditions to secure which shall be prescribed by the board of estimate. A freeholder or householder shall not be required to purchase or use a patented article on a building or structure or in a street unless there shall have been fair and reasonable opportunity for competition under conditions and in accordance with rules and regulations prescribed by the board of estimate.

## CHAPTER XXXVI.

### REAL PROPERTY.

- Article 1. Administration of real property. (§§ 1250–1260.)  
2. Acquisition of real property. (§§ 1270–1276.)

### ARTICLE 1.

#### ADMINISTRATION OF REAL PROPERTY.

Section 1250. Property continued in city and declared inalienable.

1251. Water front grants confirmed; rights of private owners saved.

1252. Designation of real property.

1253. Boundary disputes; settlement of.

1254. Sale or lease of real property.

1255. Discontinued streets; sale of real property in.

1256. Lands under water; power to convey to owners of upland.

1257. Exchange of real property.

1258. Water supply; lease of real property acquired for.

1259. Street openings, demolition of buildings along course of.

1260. Rental of real property.

Section 1250. Property continued in city and declared inalienable. The rights and title of the city in and to its real property, water front property, ferries, public landings, parks, streets and the land thereunder and all other public places are hereby continued in the city and are declared to be inalienable, except as in this act otherwise provided.

§ 1251. Water front grants confirmed; rights of private owners saved. To enable the city to make needful provision for navigation and commerce it shall have the control of the water front of the entire city, subject, however, to the rights of private

owners and shall have power to acquire, establish and maintain ferries and water front property; and in addition to all grants heretofore made there is hereby granted in fee and confirmed to the city in all the public streams, rivers, sounds, bays and waters within or adjoining the limits of the city all the estate, right, title and interest of the people of the state in and to the lands covered by water embraced within the projected lines of any street intersecting the shore line now in public use or hereafter opened for public use. The commissioners of the land office shall, from time to time, convey by patent the lands herein granted to the city whenever required by the board of estimate. This grant shall not impair or affect any existing valid private rights or the existing riparian rights of owners of private property or the lawful rights of private owners of docks, piers and other structures.

§ 1252. Designation of real property. The sinking fund commission may

1. Designate and redesignate for any public purpose any city or county property for whatsoever purpose originally acquired which may be found by the head of the department, board, body or office having control thereof to be no longer required for the purposes of such department, board, body or office;

2. Assign and reassign to the several departments, boards, bodies and offices for use in the discharge of their administrative duties real property owned or leased by the city or a county;

3. Designate as playgrounds for children any unimproved or unused lots or other real property of the city, subject to its regulations, and require the police department to supply protection for such playgrounds;

4. Designate and redesignate the places where the several municipal courts shall be held within their respective districts and places for the holding of the courts of general and special sessions and, upon the application of the board of city magistrates, additional places for the holding of magistrates' courts; notice of any change of the places of holding such courts shall, before the same take effect, be published in the City Record daily for six days;

5. Designate from time to time any building or part thereof within the city as a common jail for all the purposes for which common jails may by law be used and such building or part thereof so designated shall be a common jail.



§ 1253. Boundary disputes; settlement of. The sinking fund commission may by unanimous vote settle and adjust by mutual conveyances or otherwise and upon such terms and conditions as it may determine disputes existing between the city and private owners of real property in respect to boundary lines and release such interest of the city in real property as the corporation counsel shall certify in writing to be a mere cloud or an invalid lien upon the title of private owners.

§ 1254. Sale or lease of real property. The sinking fund commission, except as otherwise provided in this act, may sell or lease to the highest bidder at public auction or by sealed bids, after advertisement for a period of at least six days in the City Record and after appraisal under the direction of the commission made within three months of the date of sale or lease, any city or county property no longer required for a public purpose, but no lease or renewal shall be for a term longer than ten years. If such property be market property it shall be sold only pursuant to a resolution adopted by unanimous vote of the commission concurred in by the board of aldermen. The proceeds of such sale or lease shall on receipt thereof, after paying necessary charges, be paid to the credit of the "sinking fund of The City of New York," except proceeds of sale of land or buildings in the county of New York owned for school purposes acquired prior to January first, eighteen hundred and ninety-eight, which shall be paid into the "sinking fund of The City of New York for the redemption of the city debt." The board shall provide as a condition of any such sale that no part of the buildings or fixtures on any such real property be relocated or re-erected within the lines of any street or public improvement and that if such condition be violated the owner be divested of the title to such buildings or fixtures and that the same thereupon vest in the city.

§ 1255. Discontinued streets; sale of real property in. The sinking fund commission shall also have power to sell and convey the right, title and interest of the city in and to real property lying within a street that has been discontinued and closed in whole or in part by lawful authority to the owners of real property fronting on such street so discontinued and closed on such terms and conditions as it may determine, provided the commission determine that such real property so sold is not needed for public use.

§ 1256. Lands under water; power to convey to owners of upland. The sinking fund commission may sell and convey the

right, title and interest of the city in and to real property within the limits of a river, stream, pond or water, closed or proposed to be closed pursuant to change in the city map to the abutting owner upon such terms as the commission determine, provided it determine that such real property is not needed for public use.

§ 1257. Exchange of real property. The sinking fund commission may by unanimous vote, upon determining that real property is no longer needed for public use, exchange such real property, with or without the improvements thereon, for other real property of equal or greater value, provided the commission determine that such other real property is needed for a public use. To determine the value of the real property affected such property shall be appraised within three months prior to the exchange by three disinterested appraisers appointed by the commission. The report of the appraisers shall be presented to the commission at its first meeting after the completion of the appraisal. The approval of the corporation counsel shall be necessary as to the form of all instruments of conveyance required to effect such exchange.

§ 1258. Water supply; lease of real property acquired for. The sinking fund commission may upon petition, after public hearing, lease an easement for purposes of highways or public service utilities in, on, over or under real property of the city outside its limits acquired for the sanitary protection or other purpose of its water supply for a term not exceeding twenty-five years with privilege of renewals upon fair revaluations for additional periods not exceeding in the aggregate twenty-five years, upon such conditions, for such consideration and subject to such restrictions as the commission determine. Notice of such hearing and petition shall be published at least twice in the City Record and in two newspapers designated by the commission at the expense of the petitioners. No such lease shall be made unless the commission determine that the easement so leased be used for a purpose consistent with the sanitary protection or other purpose of the water supply of the city, and provided that every such lease contain covenants restricting the use of such real property in accordance with the determination of the commission and providing for the forfeiture to the city of the term upon breach of any of said covenants.

§ 1259. Street openings, demolition of buildings along course of. The sinking fund commission may cause to be demolished or removed all buildings or other structures acquired by the city in

proceedings to open a street and not needed for a public purpose. The expense of such demolition and removal shall be paid from the proceeds of the sale of corporate stock.

§ 1260. Rental of real property. The sinking fund commission may contract and collect rental for

1. The temporary occupation and use of real property acquired for public purposes for the period between the acquisition of such property and the time when the same shall be actually utilized by the city;

2. The occupation and use of real property which, having been originally acquired for public use, is no longer required therefor;

3. The use of real property belonging to or managed by the city, except as herein otherwise provided.

## ARTICLE 2.

### ACQUISITION OF REAL PROPERTY.

Section 1270. Acquisition.

1271. Power vested in board of estimate.

1272. Title which may be acquired.

1273. Playgrounds.

1274. Condemnation.

1275. Property exempt from acquisition for street purposes.

1276. Property for water supply purposes.

Section 1270. Acquisition. The city may acquire real property for the city or a county by purchase, devise or gift, dedication, grant or cession, exchange, eminent domain, or lease.

§ 1271. Power vested in board of estimate. The board of estimate may select real property for any purpose of the city or a county and cause title thereto to be acquired either by purchase or by the exercise of the right of eminent domain. It may acquire or lease real property for public purposes on its own motion or on the application of the head of a department, board, body or office of the city or a county. It may prescribe the manner in which application for the acquisition or lease of real property shall be made and upon what maps, estimates of value, certificates of necessity, reports and other documents; but no resolution authorizing the acquisition of real property for street purposes shall be adopted by the board unless the proposed improvement shall have been laid out on the city map. The board may agree

with the owner or person having an estate or interest in real property for its purchase or lease. If the real property be owned or occupied by the state, a municipal corporation or a school district the agreement with the city shall be made, respectively, by the commissioners of the land office, the mayor and common council of a city, the board of supervisors of a county, the president and board of trustees of a village, the supervisor and superintendent of highways of a town and the trustees of a school district.

§ 1272. Title which may be acquired. When authorized to acquire real property the city may acquire the fee simple, the fee subject to an easement, an easement or other estate, interest or right therein or if the real property be required for a street the fee may be acquired in trust that the street be kept open for or as a part of a public street forever, as the board of estimate may determine.

§ 1273. Playgrounds. The board of estimate may select, locate, lay out and acquire property for sites for playgrounds and school farms.

§ 1274. Condemnation. The board of estimate may acquire real property either within or without the city for any public purpose by purchase or condemnation. It may authorize and direct that proceedings be instituted for the acquisition of real property by condemnation; that application be made for the appointment of commissioners of appraisal and assessment to appraise the compensation for damage and assess the benefit; authorize different proceedings to be joined in one application, whether the property to be acquired be situated in one or more boroughs; fix and determine the area or areas of benefit to be assessed; exercise general control and direction of such proceedings; and have such other powers in relation thereto as are provided in this act.

§ 1275. Property exempt from acquisition for street purposes. Authority conferred by this act to acquire real property shall not extend to condemnation for street purposes of the real property of St. John's College or Fordham University, the University of The City of New York, or Columbia College, used and occupied for educational purposes.

§ 1276. Property for water supply purposes. The board of estimate may select all sources of water supply needed for the supply and distribution of pure and wholesome water, acquire

or lease real property necessary to secure the sole and exclusive property in or use of any source of water supply determined upon, extinguish the rights of any person therein, and lay, relay, repair and maintain aqueducts, conduits and water pipes with the connections and fixtures on the lands of others for the purpose of conducting water to the city, intercept and direct the flow of water from the lands of any persons owning or interested in any water and prevent the contamination of the water supply.

## CHAPTER XXXVII.

### PROCEEDINGS FOR ACQUIRING REAL PROPERTY.

- Article 1. General provisions applicable to two or more classes of proceedings. (§§ 1280-1294.)
2. Proceedings to acquire real property for street purposes, parks, docks, ferries and sewers. (§§ 1300-1329.)
  3. Proceedings to acquire real property for water supply purposes. (§§ 1340-1363.)
  4. Proceedings to acquire real property for general purposes. (§§ 1370-1384.)

## ARTICLE 1.

### GENERAL PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF PROCEEDINGS.

#### Section 1280. Definitions.

1281. Majority of commissioners may act.
1282. Oath of commissioners.
1283. Amendment of defect or informality.
1284. Purchase by city of awards.
1285. Corporation counsel to institute proceedings, appear and protect interests of city and provide clerks, stenographers and offices.
1286. Notice of application for appointment of commissioners; how posted.
1287. Fees of commissioners; when to be taxed.
1288. Appeals to appellate division.
1289. Appeal to court of appeals.
1290. Notice of confirmation of awards to be given the comptroller.
1291. Effect of vesting title on leases and contracts.

Section 1292. Tax assessor competent as witness.

1293. Damages to buildings; owner may accept cost of removal.

1294. Effect of this act on pending proceedings.

Section 1280. Definitions. In this chapter, the term

a. "Acquire," "acquisition" means acquire or acquisition by condemnation;

b. "Owner" means a person having an estate, interest or easement in the property to be acquired or a lien, charge or incumbrance thereon;

c. "Map" includes map, survey and plan; and wherever in this chapter a map, survey or plan is required to be made or filed such map, survey or plan may be made or filed in sections;

d. "The appellate division" means the appellate division of the judicial department in which the real property or some part thereof is situated;

e. "The court", "the supreme court", except where the context otherwise requires, means a special term of the supreme court held in a county within the judicial department in which the real property or some part thereof is situated;

f. "Commissioners of appraisal" means the commissioners appointed to appraise the compensation for damages to be made to the owners of the real property proposed to be acquired;

g. "Commissioner of assessment" means the commissioner of appraisal appointed to assess the cost of an improvement or such portion thereof as the board of estimate directs upon the lands within the area of assessment as determined by the board of estimate;

h. "Recorded" when referring to an instrument affecting real property means recorded in the office in which conveyances of real property are recorded in the county in which the real property is situated;

i. "Recording officer" means recording officer of the county in which the real property is situated as defined by the real property law;

j. "Published", "publication" means, unless otherwise specified, published or publication in the City Record;

k. "Expense of the improvement" or its equivalent includes the amount awarded for compensation of damages and the cost and expense of the proceeding for acquiring the real property required for the improvement, as provided in this chapter;

l. "Abstract" means the preliminary report of the commissioners of appraisal or of the commissioner of assessment, as the case may be;

m. "Report" means the final report of the commissioners of appraisal or of the commissioner of assessment, as the case may be.

§ 1281. Majority of commissioners may act. The acts, decisions and proceedings of a majority of the commissioners of appraisal shall be as valid and effectual as if the commissioners had all concurred and joined therein.

§ 1282. Oath of commissioners. Each commissioner before entering upon the performance of his duties shall take and subscribe before a person authorized to administer oaths the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York and faithfully discharge the duties of the office of commissioner according to the best of my ability, that I have no interest in any real property affected by this proceeding and that I am disinterested in respect thereto." Such oath or affirmation shall be forthwith filed in the office of the clerk of the county in which the order appointing the commissioners shall have been entered. If the real property be located in two or more counties duplicate oaths shall be filed with the clerk of each county.

§ 1283. Amendment of defect or informality. The court shall have power at any time upon the application of the city to amend a defect or informality in a proceeding authorized by this act or to alter, revoke or amend the taking of an interest or fee or to cause other property affected by the defect, informality or lack of jurisdiction to be included therein by amendment and to direct such further notices to be given to any party in interest as it deems proper and also to appoint other commissioners in place of any who die, resign, refuse or neglect to serve, fail to qualify, be incapable of serving, be removed or be rejected for cause. If it be found necessary to amend any petition, pleading, proceeding or order or to supply any defect therein arising in the course of a proceeding authorized by this act the same may be amended or supplied in such manner as shall be directed by the court, which is hereby authorized to make such amendment or correction.

§ 1284. Purchase by city of awards. In a proceeding instituted pursuant to any of the provisions of this act or pursuant to the provisions of any other statute providing for the acquisition

of title to real property by the city in which title thereto shall have become vested in the city prior to the confirmation of the report of the commissioners, the board of estimate may purchase or approve the purchase on behalf of the city from a person who was the owner of said property at the date of the vesting of title in the city or from his successor in interest or legal representatives his right and title to the award or any part thereof to be made in such proceeding and to take an assignment thereof to the city. If such owner or his successors in interest or legal representatives shall have transferred or assigned such claim, such transfer or assignment shall not become binding upon the city unless the instrument evidencing such transfer or assignment shall have been filed in the finance department of the city prior to the completion of such purchase. Upon the completion of such purchase the corporation counsel shall give notice thereof to the commissioners appointed in the proceeding, and upon the service of such notice all the jurisdiction of the commissioners over the parcel or parcels to which the purchase relates shall forthwith cease.

§ 1285. Corporation counsel to institute proceedings, appear and protect interests of city and provide clerks, stenographers and offices. When the acquisition of title to real property for public use shall have been authorized, the corporation counsel shall institute a proceeding for such purpose. The corporation counsel shall, either in person or by such assistant or counsel as he shall designate, appear for and protect the interests of the city in all proceedings in court and before the commissioners. He shall provide the commissioners with such clerks, stenographers and other employees and such offices as they may require in the discharge of their duties.

§ 1286. Notice of application for appointment of commissioners; how posted. When handbills are required by statute to be posted they shall be affixed with paste or other adhesive substance and proof of such affixing shall be sufficient without proof that such notice remained posted.

§ 1287. Fees of commissioners; when to be taxed. Fees of commissioners in proceedings instituted under this act or under the rapid transit act for the acquisition of title by the city to real property required for public use shall not be taxed by the court prior to the confirmation of the report of the commissioners unless the same are to be included in an assessment for benefit.



If the fees of the commissioners are to be included in an assessment for benefit such fees shall not be taxed by the court until the commissioners shall have determined their final awards and given instructions to their clerk to prepare the report.

§ 1288. Appeals to appellate division. The city or a party aggrieved by the order of the special term entered on the motion to confirm the report of the commissioners of appraisal or of the commissioner of assessment or both may appeal to the appellate division. Such appeal shall be taken and heard in the manner provided for appeals in special proceedings and shall be heard and determined upon the merits both as to law and fact. The taking of an appeal shall not operate to stay the proceedings except as to the particular parcel to which the appeal relates. The order confirming the report or reports shall be final and conclusive upon all parties who shall not have appealed. Such appeals shall be heard upon the evidence taken before the commissioners or such part thereof as the court at special term may certify or as the parties to the appeal may agree upon as sufficient to present the merits of the questions in controversy and on affidavits as to irregularities presented to the court at special term. An appeal taken but not prosecuted within six months after the filing of the notice of the appeal, unless the time for such prosecution be extended by the court, shall be deemed to have been abandoned and such time shall not be extended by agreement between the parties. When an order confirming a report is reversed upon appeal the commissioner of assessment to whom such report shall be referred for amendment, correction or revision shall have power to make such additional assessment as may be necessary, and the court may direct a new appraisal or determination of any question by the same or new commissioners.

§ 1289. Appeal to court of appeals. An appeal to the court of appeals may be taken by the city or any person aggrieved by the order of the appellate division. Such appeal shall be taken and heard in the manner provided for appeals in special proceedings; but an appeal taken but not prosecuted within six months after the filing of the notice of the appeal, unless the time for prosecution thereof be extended by the court, shall be deemed to have been abandoned and such time shall not be extended by agreement between the parties. The court of appeals may affirm or reverse the order appealed from and may make such order or direction as may be appropriate whether for a rehearing before the same or new commissioners to be appointed by the supreme

court or for final confirmation of the reports or otherwise. If the report or reports be confirmed, the court of appeals shall enter a final order in the proceeding which shall be binding upon all persons having any interest in the real property affected and the city shall thereupon be entitled to take and hold such real property for the public use in the cases where title to the same has not already vested in the city pursuant to other provisions of this act.

§ 1290. Notice of confirmation of awards to be given the comptroller. In a proceeding hereafter had to acquire real property for or in behalf of the city before an award shall be confirmed imposing an obligation upon the city to pay any moneys out of the proceeds of the sale of corporate stock the comptroller shall have thirty days' notice in writing, stating before whom and at what time application for confirmation will be made.

§ 1291. Effect of vesting title on leases and contracts. Where the whole or any part of premises under lease or other contract be acquired all the covenants, contracts and engagements between landlord and tenant or other contracting parties concerning the same or any part thereof shall, upon the vesting of the title in the city, cease and determine; and where part of such premises is acquired all contracts and engagements respecting the same shall, upon such vesting, cease and determine and be absolutely discharged as to the part thereof acquired, but shall remain valid and obligatory as to the residue, and the rents, considerations and payments reserved or payable shall be apportioned by the commissioners and the part thereof justly and equitably payable for the residue may be recovered. All tenants in possession of the premises at the time of vesting title shall become tenants at will of the city unless within ten days after the vesting of title they shall elect to vacate and give up their respective holdings.

§ 1292. Tax assessor competent as witness. In any proceeding under this chapter a tax assessor shall be a competent witness as to value.

§ 1293. Damages to buildings; owner may accept cost of removal. In the case of real property required for public use upon which there is a building or structure the sinking fund commission may, prior to confirmation of the report of the commissioners of appraisal, agree, if title have not vested in the city, with the owner thereof or any person having a beneficial interest therein and if title have vested in the city, with the person entitled to the award therefor that such building or structure may be removed and that the damages to be awarded shall be the cost of the removal thereof.

such cost of removal to be determined by the commissioners of appraisal appointed in the proceeding to acquire the same. The commissioners of appraisal where such an agreement has been made shall determine the cost of removal and include the same in their report and the commissioner of assessment shall include the amount of such award in the assessment. The agreement shall provide that any such building or structure shall not be located or re-erected within the lines of a proposed street or public improvement and in case of breach of such condition the title of the owner to the building or structure shall be divested and vest in the city. The sinking fund commission may also sell buildings or structures acquired by the city and not needed for public use and may as a condition of the sale at private sale of the city's interest in any building or structure acquired by the city, as to which no agreement has been made, provide as a condition that such building or structure shall not be located or re-erected within the lines of any proposed street or other public improvement; and if such a building be sold at public auction prescribe similar conditions in the terms of sale, and if in either case there shall be a breach of the conditions the title of the owner thereto shall be divested and vest in the city.

§ 1294. Effect of this act on pending proceedings. Proceedings heretofore instituted shall be conducted in all respects as if this act had not been passed. A proceeding shall be deemed to be instituted within the meaning of this section where publication of the notice of application for the appointment of commissioners shall have heretofore been commenced.

## ARTICLE 2.

### PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR STREET PURPOSES, PARKS, DOCKS, FERRIES AND SEWERS.

Section 1300. Authorization of proceedings; determination of awards.

1301. Board of estimate to fix area of assessment and apportion expense.

1302. Commissioners; appointment and qualification of.

1303. Vacancies; how filled.

1304. Commissioners to view and give notice of their appointment.

1305. Commissioners to condemn real property; powers of.

- Section 1306. Commissioners to ascertain damages and benefit.
1307. Abstract of awards and of assessments to be deposited.
1308. Amendment of abstract.
1309. Witness; how compelled to testify.
1310. Commissioners to present reports to court.
1311. Reports; what to contain.
1312. Proceedings upon presentation of reports for confirmation.
1313. Reports to be filed.
1314. Vesting of title in the city.
1315. Within what time proceedings to be completed; removal of commissioners.
1316. Owners may convey to the city.
1317. City may agree with owners.
1318. City entitled to compensation and liable to assessment.
1319. Expenses of corporation counsel.
1320. Costs, charges and expenses.
1321. Taxation of costs.
1322. Discontinuance of proceedings.
1323. Damages; when to be paid.
1324. Moneys of persons under disability; how disposed of; moneys paid to wrong person.
1325. Sums to be proportionately assessed.
1326. Sums assessed to be liens.
1327. Report of assessment to be transmitted to chamberlain.
1328. Assessment may be set off against award.
1329. Drains; acquisition of real property for.

Section 1300. Authorization of proceedings; determination of awards. When the board of estimate shall have authorized the taking of real property for street purposes or for the improvement of the water front of the city or for ferry purposes or for sewers the city may apply to the supreme court for the appointment of commissioners of appraisal to determine the awards which should justly be made to the owners of the real property proposed to be taken and, in a proper case, for the appointment of one of such commissioners as a commissioner of assessment to assess the cost of such improvement or such portion thereof as the board of estimate directs upon the real property within the area of assessment

as determined by the board. As many proceedings may be joined in one application for the appointment of commissioners of appraisal or commissioner of assessment as the board of estimate determine.

§ 1301. Board of estimate to fix area of assessment and apportion expense. In proceedings involving an assessment for benefit, whether now pending or hereafter authorized, the board of estimate may determine upon a partial or separate area or areas of benefit for the opening of a street or streets joined in one application or for as many streets as it may decide and authorize the making of a partial or separate report or reports containing both awards for damage and assessments for benefit and their presentation together for confirmation. Notice of a hearing upon such partial or separate area or areas of assessment may be given as herein provided either before the application for the appointment of commissioners or during the pendency of the proceeding. It may also include in a single proceeding contiguous premises to be acquired in more than one borough and authorize the appointment of commissioners of appraisal and a commissioner of assessment therefor, and it may determine upon an area of assessment covering more than one borough and all the provisions of this title shall be applicable thereto. The moneys collected upon the assessment shall be paid to the chamberlain. The awards shall become due and payable immediately upon the confirmation of the report of commissioners of appraisal.

The board of estimate shall at the time of the adoption of the resolution directing the institution of the proceedings or thereafter in the case of pending proceedings fix and determine upon an area or areas of assessments for benefit, and may review and alter any such area of assessment at any time before the assessment for benefit shall have been completed and confirmed by the supreme court if it deem such action advisable. It may divide the area or areas of assessment or partial or separate areas of assessment determined upon by it into zones or subareas and direct what portion in percentages of the cost and expense of the proceedings shall be made a charge upon such zones or subareas. The board shall give notice in the City Record of each proposed area and subarea of assessment for each improvement and of the proposed percentage of the cost and expense of the proceeding to be charged upon each zone or subarea and of a hearing thereon. Similar notice shall be given of a proposed revision or alteration of an

area or subarea of assessment or of the percentages to be charged thereon. It may determine whether any and, if any, what portion of the cost and expense of the proceedings shall be borne by the city or a borough or boroughs or by the city and a borough or boroughs; and may also determine in any proceeding or class of proceedings or generally what portion of the expenses of the law department of the city and of the cost and expense incurred by the borough president in the preparation of maps shall be borne by the city, and the whole or remainder of such cost and expense shall be assessed upon the property deemed to be benefited.

§ 1302. Commissioners; appointment and qualification of. Whenever the acquisition of real property for street purposes or for the improvement of the water front or for ferry purposes or for sewers shall have been authorized, the corporation counsel, upon notice by advertisement published for ten successive issues of the City Record and by causing copies of the same in handbills to be posted for the same space of time in three conspicuous places upon or adjacent to the real property to be affected by the intended improvement shall make application to the supreme court for the appointment of commissioners of appraisal and in a proper case a commissioner of assessment, indicating in such application the real property required by a general description, and in case the real property be required for street purposes by reference to the maps on file in his office and referring to the area of assessment fixed by the board of estimate. Upon such application the court shall appoint three discreet and disinterested persons, citizens of the United States and residents of the city, commissioners of appraisal and in a proper case one of such commissioners of appraisal commissioner of assessment. The person appointed commissioner of assessment shall be so designated in the order of appointment. The persons appointed commissioners shall be subject to challenge by any person having an interest in the proceeding upon any ground which would disqualify a judge or juror. Ten days' notice of the appointment of the commissioners shall be published in the City Record, and the corporation counsel shall cause a copy of such notice to be served by mail or otherwise any time before the return day specified therein upon such parties or their attorneys as have filed a notice of claim or of appearance in the proceeding. Such notice shall specify the names of the persons appointed as commissioners and fix a day when the parties may be heard by the supreme court

as to the qualification of such commissioners. The persons appointed commissioners shall attend at the time and place fixed in the notice and be examined under oath as to their qualifications. A challenge must be tried and determined by the court in the mode prescribed by law in respect to the challenge of jurors and such determination may be excepted to and reviewed as in the case of jurors. Where a challenge is sustained and a new commissioner is appointed such new commissioner shall be subject to challenge in the same way, to be heard and determined by the court at such time as it direct.

§ 1303. Vacancies; how filled. If a commissioner die, resign, refuse to serve, be rejected for cause or fail to qualify the court may, on the application of the city on notice to any person interested who may have appeared on the prior application as often as necessary appoint a new commissioner in the same manner as commissioners were originally appointed in the place of such commissioner and the surviving or acting commissioners may proceed in the execution of their duties until such new commissioners qualify. The new commissioner shall possess the same qualifications and be subject to challenge upon the same grounds and in the same manner as hereinbefore provided and the time and place for such challenge shall be specified in the order appointing him.

§ 1304. Commissioners to view and give notice of their appointment. The commissioners of appraisal shall view the real property to be acquired. The commissioner of assessment shall view so far as he deem necessary the real property in the area of assessment. The commissioners shall cause to be published a notice of their appointment, containing a brief statement of the purposes for which they have been appointed and requiring all owners of the real property affected by the proceeding to present their claims duly verified within ten days after the date of such notice and stating a time and place after the expiration of said ten days when the owners will be heard in relation thereto. At the time and place fixed by the notice, or at any other time and place appointed by the commissioners, they shall hear such owners and receive such proofs and allegations as may then be offered by the owners or the city. The commissioners of appraisal shall refer the taking of proof of title to property taken where the title is undisputed and likewise proof as to any lien or incumbrance thereon or any demands against the same to the clerk of the commissioners or to the assistant corporation counsel in charge

of the proceeding. The corporation counsel may obtain from a title insurance company certificates of title to the real property affected and of the liens and incumbrances thereon in any case which in his judgment warrants such action.

§ 1305. Commissioners to condemn real property; powers of. The commissioners of appraisal and the commissioner of assessment may take proof and testimony. The commissioners may, as a condition for the opening of a default require the party applying therefor to pay the fees of the commissioners and their clerical expenses for the additional meeting or meetings made necessary by his default. They shall cause to be reduced to writing the testimony, if any, taken before them. They may cause such maps or diagrams to be prepared as will enable or assist them to hear and determine the claims or interest of the owners. From the maps furnished to or prepared by them and such other information as they shall possess or obtain they shall cause diagrams to be prepared which shall distinctly indicate by separate numbers the respective parcels of real property to be acquired or assessed and the respective owners of such parcels where known and shall specify in figures with sufficient accuracy the dimensions and bounds of each parcel. The lots assessed shall be designated on such maps by the same ward or block and lot numbers or other designations as shall be used to designate the property on the tax-books of the city. If a lot designated on such tax-books be not assessed as a whole but as to a part or in separate parts there shall be added to the designation such letters, numbers or figures or other description as may be necessary in order to indicate the exact parcel comprised in the tax lot assessed. If an assessment be levied by a commissioner of assessment upon an entire borough or two or more entire boroughs it shall not be necessary to prepare benefit maps but only to refer to the parcels assessed by the block, lot and ward numbers shown on the tax maps of the borough; but all subdivisions of any such lot or parcel shall be described as aforesaid. The commissioners may require the head of a department, board, body or office of the city to furnish such maps or plans and profiles as may be required. The corporation counsel shall, if the head of a department, board, body or office of the city fail within three months after due request in writing to furnish the maps or plans and profiles required to procure such maps or plans and profiles from the lowest bidder without advertisement, and may reject all bids. The expense thereof shall be chargeable against the fund

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out of which the expense of the improvement is to be paid and included in the assessment for benefit, if any.

§ 1306. Commissioners to ascertain damages and benefit. After hearing the testimony and considering such proofs as may be offered the commissioners of appraisal shall, without unnecessary delay, ascertain and appraise the compensation which ought justly to be made by the city to the respective owners of the real property required for the improvement; and the commissioner of assessment shall make a just and equitable assessment of the value of the benefit of such improvement to the respective owners of the real property deemed benefited by the improvement, and the commissioners of appraisal and the commissioner of assessment shall prepare separate abstracts of their appraisal and assessment. The commissioner of assessment shall, in making his assessment of the value of the benefit, assess the real property within the area or areas of assessment fixed and prescribed by the board of estimate in proportion to the amount of benefit received. The borough president shall in the preparation of maps requested by the commissioners make a monthly return to the corporation counsel, verified by him, showing the names of persons employed and the number of hours occupied by them in the preparation of such maps and the days of the month so occupied, their respective salaries and the amount of such salary apportioned to the expense thereof in each proceeding. Such returns shall be considered presumptive evidence of the correctness of such expense which, if the board of estimate so determine, shall be included in whole or in part in the assessment for benefit after the same shall have been taxed by the supreme court in the manner provided for the taxation of the bills of costs of commissioners of appraisal and of the commissioner of assessment. The salaries of the persons employed by the borough president or the proportionate share thereof chargeable to the preparation of maps shall be paid monthly in the first instance out of the fund for street and park openings upon pay-rolls and vouchers duly certified by the borough president in the same manner as the employees of the law department are paid. When the board direct that any part of the entire cost and expense of a proceeding shall be borne by an entire borough or two or more entire boroughs it shall fix the compensation to be paid to the commissioner of assessment for making such distribution. The determination of the board of the proportions to be borne by the city, a borough or boroughs or the city and a borough or boroughs and by the property deemed benefited shall be final.

The commissioner of assessment shall not assess any house, lot, improved or unimproved lands more than one-half of the fair value thereof as determined by him. The commissioner may, if he deem it just and equitable, assess any part, not exceeding one-third of the estimated value of a building or buildings taken in the proceeding, but not of any other improvement, upon the city.

§ 1307. Abstract of awards and of assessments to be deposited. The commissioners of appraisal and the commissioner of assessment shall deposit at the same time in the law department the respective abstracts of their appraisal of damages and of assessment for benefit at least twenty days before their respective reports shall be presented to the court for confirmation, which abstracts shall be accompanied by copies of the diagrams used by them and shall refer to the numbers indicated on such diagrams and state the several sums awarded for or assessed upon each parcel with the name or names of the owners, so far as ascertained. When the board of estimate direct that a part of the cost and expense of the proceeding shall be assessed on an entire borough or two or more entire boroughs it shall not be necessary to attach to the abstract of assessment for benefit nor to the report any assessment maps; but reference shall be made in the preliminary abstract and in the tabular abstract attached to the report to the parcels assessed for benefit as shown on the tax maps of the borough for the current year. Should any change be made in the size or area of a parcel proposed to be assessed, by subdivision or otherwise, the commissioner of assessment may make an apportionment of a proposed assessment rendered necessary by such change. The borough president shall furnish to the law department sets of the tax maps of the borough in duplicate for filing and for convenience of reference in the abstract and the report of the commissioner of assessment. The surveyor of the department of taxes shall make and furnish all such surveys and corrections of the tax maps as may be necessary for the purpose of assessment. Such commissioners shall deposit all the affidavits and proofs used by them in making their abstracts. They shall also publish a notice for fifteen days in the City Record, stating their intention to present their final reports for confirmation to the court at a time and place to be specified, provided there be no objection to either abstract, and also that all persons interested in such proceedings or in any of the real property affected thereby having any objection thereto, shall file the same in writing duly verified with the commissioners within twenty days after the first

publication of the notice and that the commissioners will hear parties so objecting at a place and at a time after the expiration of said twenty days to be specified in said notice. Such objections shall be verified in accordance with the provisions of the civil code relating to the verification of pleadings in courts of record. When necessary the commissioners of appraisal or the commissioner of assessment may prepare a new, supplemental or amended abstract and file the same. Similar notice for at least ten days shall be given of any new, supplemental or amended abstract, but such abstract shall be refiled for objections thereto for ten days only. At the time and place named in the notice the commissioners shall hear those who shall have objected to the abstract and who may appear, and shall have the power to adjourn from time to time until all shall have been fully heard. If objections be filed, the motion to confirm the reports shall stand adjourned until a date to be specified in the notice hereinafter provided for. Except as otherwise provided in this chapter the report as to awards and the report as to assessments must be noticed for and brought on for confirmation at the same time and place.

§ 1308. Amendment of abstract. It shall not be lawful for the commissioners of appraisal or the commissioner of assessment to alter or amend an abstract or a new, supplemental or amended abstract after the same shall have been deposited for inspection by increasing the amount of an assessment or diminishing an award unless the owner affected by such increase or diminution shall have had notice thereof and an opportunity to be heard before the commissioners.

§ 1309. Witness; how compelled to testify. Upon the application of a person whose rights may be affected by the appraisal or assessment verified by the oath or affirmation of the applicant or his agent that a witness residing or being in the city whose testimony is material or necessary to such party refuses voluntarily to appear before any officer authorized to take an affidavit to testify or affirm to such matter as he may know concerning an objection, any one of the commissioners may issue a subpoena under his hand requiring such witness to appear and testify to such matters as he may know concerning the appraisal or assessment at such time and place as the commissioner may designate. A person served with such subpoena who shall without reasonable cause refuse or neglect to appear or appearing shall refuse to answer under oath or affirmation concerning the matters aforesaid shall forfeit to the party injured one hundred dollars; and

may also be committed to prison by any justice of the supreme court upon application duly made on behalf of the commissioner who issued such subpoena there to remain without bail and without the liberties of the jail until he shall submit to answer under oath or affirmation as aforesaid.

§ 1310. Commissioners to present reports to court. After considering the objections, if any, and making any correction or alteration of the abstract of damage or assessment which the commissioners of appraisal or the commissioner of assessment shall deem to be just, the reports shall be filed at the same time in the office of the clerk of the county where the real property is situated at least five days before the time fixed in the preliminary notice for the presentation of said reports to the court for confirmation if no objection should be filed or if objection be filed five days before the date to which the same shall have been duly adjourned. If objections have been filed, a new notice of motion to confirm shall, upon the filing of the reports, be given by mail to the persons who have appeared in the proceeding and by publication in the City Record for five days. The commissioners or any person interested shall notify the corporation counsel and all persons who have filed objections or who have theretofore appeared as soon as the reports shall have been filed. The corporation counsel may present the same for confirmation or, in case of his neglect or refusal to do so for ten days after notice of filing, any person interested in the real property taken or required may present the same upon notice to the corporation counsel.

§ 1311. Reports; what to contain. The reports of the commissioners shall consist of the maps hereinbefore referred to, duly corrected, except in the case of an assessment to be levied upon an entire borough or two or more entire boroughs with a tabular abstract of the appraisal of damages and a tabular abstract of the assessment for benefit with any corrections or alterations showing fully and separately the amount of damage and of benefit to each owner interested in any real property affected by the improvement. In such reports the commissioners shall set forth the names of the owners of the real property mentioned in the report so far as the same shall have been ascertained by them and a designation or description of the parcels acquired and also of the parcels assessed. Such reports shall refer to the number of the parcels indicated on the maps, except in the case of an assessment to be levied on an entire borough or two or more entire boroughs and state the sums assessed upon each parcel with the

name of the owner if ascertained by the commissioner. If the board of estimate direct that a portion of the cost and expense of the proceeding be borne by an entire borough or two or more entire boroughs, it shall be sufficient in the abstract of assessments and in the report as to assessments to refer to the parcels of real property benefited by the improvement by reference to the block, lot and ward number on the tax maps of the borough in the manner heretofore provided. When the commissioners shall be unable to ascertain the name of an owner, they shall indicate the parcel upon the map as belonging to unknown owners. It shall not be necessary in the reports to describe any of the parcels by metes and bounds but only by reference to the maps. The reports shall set forth separately the sums awarded for damages and assessed for benefit. The commissioners of appraisal in a proceeding embracing only one street may, when authorized by a majority vote of all the members of the board of estimate, make and file a partial abstract of damages and make a separate partial report with reference thereto. Such separate or partial report shall be made in the same form and manner, and such proceedings shall be had in respect thereto as in respect to the report relative to the entire real property as herein provided. The commissioner of assessment, if authorized by the board of estimate, may make and file a separate abstract and a separate report as to a single street or two or more streets in cases where more than one street is joined in one proceeding, but he must notice and bring such report on for confirmation at the time that any separate report as to awards for damage is authorized to be brought on. Where partial reports as to awards for damage are authorized to be made in proceedings for the opening of a single street the last partial abstract and report as to awards, when there is more than one, and the abstract and report as to assessments for benefit shall be filed and brought on for confirmation at the same time and place.

§ 1312. Proceedings upon presentation of reports for confirmation. The application for the confirmation of the reports of commissioners of appraisal and of the commissioner of assessment shall be made to the supreme court upon the same day. Upon the coming in of the report of the commissioners of appraisal and of the report of the commissioner of assessment and upon the hearing of the application for the confirmation thereof if title to the real property shall not have theretofore vested in the city or if the real property be not acquired for a public

park, public square or place, bridge, tunnel or approach to either, improvement of the water front or for ferry purposes, or for sewers, and if the owners of the fee of the real property to be acquired and assessed to the extent of more than one-half the sum of the awards and one-half the sum of the assessments appear and object to further proceedings upon the reports, the court shall order the proceedings to be discontinued; otherwise the court shall, after hearing any matter which may be alleged against the same, either confirm the report or reports in whole or in part or refer the same or a part thereof to the commissioners for revision and correction or to new commissioners to be appointed by the court to reconsider the subject-matter thereof, and such new commissioners shall return the same report or reports or such part thereof, corrected and revised, or a new report to the court without unnecessary delay; and the same on being so returned shall be confirmed or again referred by the court in manner aforesaid and so from time to time until a report or reports be made or returned which the court shall wholly confirm, and such report or any part thereof, when so confirmed, shall, unless set aside or reversed on appeal, be final and conclusive upon all parties.

§ 1313. Reports to be filed. An original of the report of the commissioners of appraisal signed by them or any two of them shall be filed by the corporation counsel in the office of the comptroller and another in the office of the clerk of the county in which the property is situated.

§ 1314. Vesting of title in the city. Should the board of estimate at any time deem it for the public interest that the title to the real property or any part thereof or any interest therein be acquired by the city at a specified time, it may direct by a three-fourths vote that at a date subsequent to the filing of the oaths of the commissioners of appraisal the title to such real property or part thereof or interest therein required for any purpose authorized in this article shall vest in the city. Upon the date specified by the board of estimate the city shall become seized in fee of the real property in the resolution mentioned and interest at the legal rate upon the sums awarded the owners from such date to the date of the report shall be allowed by the commissioners as part of the compensation to which such owners are entitled. In other cases title shall vest in the city upon the confirmation of the report of the commissioners of appraisal, and the reversal on appeal of the order of confirmation shall not divest the city of title to the real

property affected by the appeal. Upon the vesting of title the city acting by and through the department, board, body or officer which upon the acquisition of the title to said real property shall have jurisdiction thereof shall immediately take possession of such real property without suit or proceeding. The title acquired by the city to real property required for a street shall be in trust that the same be appropriated and kept open as a public street forever. If an individual or corporation before the appointment of commissioners of appraisal shall have acquired by private grant, prescription or otherwise an easement for the purpose of laying or maintaining in real property to be acquired for a street underground pipes or conduits for the distribution of water, gas, steam or electricity or for pneumatic service, such easement shall not be extinguished, but the title to the real property acquired as herein provided shall be taken subject to such easement; provided, however, that nothing herein contained shall limit the power of the city to acquire by purchase or condemnation the easement, plant or service of such person, individual or corporation.

§ 1315. Within what time proceedings to be completed; removal of commissioners. The commissioners appointed in pursuance of this article shall complete the proceedings on their part within six months from the receipt by the law department of the final damage and assessment maps, under penalty of forfeiting all fees unless an extension be given by the supreme court, in its discretion, upon a written petition containing a statement by the commissioners of the reasons for an extension and upon at least five days' notice to the corporation counsel and to the parties or their attorneys who have appeared in the proceeding. Upon such application the court may make such order in respect to the time and manner of completing the report of the commissioners and the taking and submission of the proofs of the parties as will enable or require the commissioners to complete the proceedings with reasonable dispatch; and if it appear that the proceeding has been delayed by the inattention or neglect of a commissioner the court may remove such commissioner and appoint a new commissioner in his place. The court may at any time remove a commissioner who shall, in its judgment, be incapable of serving or unfit to serve. The cause of removal shall be specified in the order.

§ 1316. Owners may convey to the city. An owner of real property within the lines of any street shown on the city map and extending from a side of such street to or beyond its center line

may, without compensation and before the appointment of the commissioners, convey to the city all his right, title and interest therein provided the same be free from incumbrances inconsistent with the title to be acquired. Upon delivery of such conveyances to the corporation counsel together with abstracts of title and complete searches if desired by the corporation counsel and with the affidavit of such owner that the person making it is the owner of the estate in such real property so conveyed by him and stating his interest and that such estate is free of all incumbrances, except as aforesaid, and if the title be not rejected for good cause the corporation counsel shall cause the conveyances to be recorded within sixty days after their delivery to him and file them with the comptroller and thereupon the city shall become vested with the title to the same effect and extent as if acquired by a proceeding taken for the opening of that portion of the street. After the making and acceptance of such conveyances no proceeding to condemn the real property so conveyed shall be taken nor shall the real property fronting on that portion of the street so conveyed and extending to the center of the block on either side of such portion of the street so conveyed be chargeable with any portion of the expense of opening any portion of the residue of such street, except the fair proportion of the awards made for buildings.

§ 1317. City may agree with owners. The city may at any time, either before or after the appointment of commissioners, agree with the owner of the real property that will be benefited by or may be required for the purpose of making the improvement as to the cession by him of the real property required and as to the compensation to be made to him for the same or as to the sum to be paid by such owner for the benefit of the improvement over and above the value of the real property, if any, that may be required. In case of such agreement or agreements with part only of the owners the same shall be valid and binding upon the parties thereto and the commissioners shall proceed with their appraisal and assessment and report to the court as to the residue of the real property required for the improvement or to be benefited thereby; and the report, when confirmed, shall be of like force and effect in regard to such residue as if no agreement as to part of the premises had been made. When the opening of a street or an improvement mentioned in this article shall have been duly authorized the corporation counsel, with the approval of the board of estimate, may before making application for the appointment of



commissioners prepare a report showing the damage exclusive of the benefit which in his judgment accrues from the improvement to each owner of the real property required for the improvement. Such report shall set forth, as far as he has ascertained, the names of all owners of such real property and where such owners cannot be ascertained it shall be sufficient to describe them generally as "unknown." Attached to said report and forming a part thereof shall be maps showing the several parcels required for the improvement and the corporation counsel may require the borough president of the borough in which the improvement is situated to furnish all maps required. Such maps shall specify in figures the dimensions and bounds of the various parcels and designate them by the block and lot numbers shown upon the tax map. He may employ appraisers and experts. Such report when approved by the board of estimate shall be certified by the corporation counsel and be thereupon deposited in the law department prior to giving notice of application for the appointment of commissioners, and such report shall remain on file in the department until the return day specified in the notice. Such report when filed shall be considered an offer on the part of the city to the owners of the real property required of the amounts specified therein. The notice shall refer to the report and state that the said court will grant the application only with reference to the real property the owners whereof shall not, on or before the return day, have filed with the corporation counsel a written acceptance of the amount specified in the report in return for a conveyance of the real property required and shall state that the court will hear upon such day any person owning any real property included in the area of benefit determined by the board of estimate who may oppose such agreement. Upon the application the court shall enter an order appointing commissioners of appraisal to appraise the real property for which no such written consent has been filed. Any person interested in the real property within the area of benefit may appear upon the application and object to the confirmation of the agreement between the city and an owner of other real property. If the court, after a hearing, deem it proper it may also appoint commissioners of appraisal with reference to real property the owners of which shall have accepted the offer of the city made in the report of the corporation counsel or may overrule the objections. When an agreement shall have been filed with the corporation counsel by an owner and no objections thereto shall have been made or if made shall have been overruled

by the court the order appointing commissioners of appraisal may also confirm the report of the corporation counsel; and all provisions of law relating to the confirmation of the report of commissioners of appraisal shall apply thereto, and all provisions of law as to the payment of awards in reports of commissioners shall be applicable to the awards made in the report of the corporation counsel, except that no such awards shall be paid when a portion only of a parcel is taken unless the owner thereof file with the comptroller an acknowledged consent that such award be accepted on condition that the remainder of the parcel not taken shall be subject to the lien of any assessment made against it in the same proceeding. The filing of such consent in the office of the recording officer shall constitute a lien on such remaining property which, however, shall not be assessed for any portion of the expenses of the proceeding subsequent to such consent.

§ 1318. City entitled to compensation and liable to assessment. If any real property belonging to the city or in which it have an interest be required for a purpose aforesaid or be deemed benefited by such improvement the city shall be entitled to compensation for the damage it may sustain and shall pay for the benefit it may be deemed to acquire thereby as other owners; and the commissioners of appraisal and the commissioner of assessment shall appraise or assess and report the sum or sums which in their opinion ought to be paid to or by the city, as the case may be. No assessment shall be imposed on any public park or street, but such amounts may be properly payable by the city and shall be charged against it in gross.

§ 1319. Expenses of corporation counsel. All expenses of the corporation counsel for assistants, clerks, stenographers, offices, searcher's or surveyor's fees and such other necessary expenses and disbursements which the city may incur under the provisions of this article shall be paid out of the fund against which the cost of the improvement is chargeable; and if the board of estimate direct shall be borne by the owners of the real property deemed to be benefited and be taxed by the court upon proof of the services rendered and disbursements charged as part of the costs and expenses of the proceeding; but such expenses and disbursements shall not be included in the assessment until after they shall have been taxed before a justice of the supreme court and have been directed to be so included by the board of estimate.

§ 1820. Costs, charges and expenses. Except as hereinbefore provided, no costs or charges of the commissioners or others shall be paid or allowed for any service performed under this article unless the same shall have been taxed by the court after notice as provided in the following section. Upon such taxation due proof of the nature and extent of the services rendered and disbursements charged shall be furnished and no unnecessary costs shall be allowed. Each commissioner of appraisal shall receive compensation at the rate of five dollars an hour on each day upon which he attends a meeting of the commissioners and is actually and necessarily employed in the performance of the duties imposed upon him at the offices provided by the law department or at a meeting of the commissioners to view the real property not to exceed twenty dollars for the day if the time necessarily required and actually spent at such meeting exceed one hour; and for each other meeting attended by the commissioner in which he is actually and necessarily employed in the performance of his duties he shall receive five dollars. The compensation of the commissioner of assessment over and above his compensation as commissioner of appraisal shall not exceed a sum equal to fifty cents for each twenty-five hundred square feet of lands embraced in the assessment district and assessed by him. If, however, the assessment district be an entire borough or two or more entire boroughs the fees of the commissioner of assessment over and above his fees as commissioner of appraisal shall be fixed by the board of estimate in the resolution fixing the area of assessment and the amount of fees as fixed by the board may be included in the assessment for benefit without taxation thereof by the court. All costs, fees and expenses or disbursements taxed as in this article provided shall be stated in detail in the bill of costs and shall be accompanied by such proof by affidavit of the reasonableness and necessity thereof as is now required by law and the practice of the court upon taxation of costs and disbursements in special proceedings.

§ 1821. Taxation of costs. A bill of such costs, charges and expenses shall be filed in the office of the clerk of the county in which the order appointing the commissioners shall have been entered at least ten days before presentation to the court. There shall be annexed a statement of the amounts, if any, previously taxed to whom the same were payable and the date of such taxation. A notice of ten days shall be published in the City Record and served upon the corporation counsel of the time and place

of taxation. The bill shall be taxed by a justice of the supreme court; and the corporation counsel shall present upon such taxation his certificate that the items have been audited by him and the result of such audit. On the final taxation a bill previously taxed in the same proceeding may be retaxed if sufficient reason therefor appear.

§ 1322. Discontinuance of proceedings. The board of estimate may discontinue any proceeding instituted pursuant to this article at any time before title shall have vested in the city if in its opinion the public interest require and may cause a new proceeding to be taken. But in case of such discontinuance the reasonable disbursements necessarily and in good faith incurred by any party shall be paid by the city after taxation by a justice of the supreme court upon ten days' notice to the corporation counsel. The amounts taxed as disbursements shall be due and payable thirty days after demand of payment thereof shall have been filed with the comptroller.

§ 1323. Damages; when to be paid. Damages awarded by the commissioners of appraisal with interest from the date of the report and all costs and expenses which may be taxed shall be paid by the city to the persons mentioned in the report or in whose favor such costs or expenses shall have been taxed. Interest on sums awarded as damages shall cease to run six months after the confirmation of the report unless within that time demand therefor be made upon the comptroller. Such damages, costs and expenses shall be paid from the fund against which the cost of the improvement is chargeable. The persons to whom awards shall have been made and the persons in whose favor costs and expenses shall have been taxed shall not have an action at law against the city therefor, but the court, upon the application of such persons and on failure of the comptroller to pay the same within thirty days after demand, shall by order direct the payment of said awards, costs and expenses from the said fund and enforce said order in the same manner as other orders of the court are enforced. When, however, the amount of damages awarded together with the costs of the commissioners exceed the balance remaining in the fund after deducting all outstanding claims against such balance the comptroller shall raise by the issue and sale of corporate stock or assessment bonds, as the case may be, such amounts as may be necessary to pay such damages, costs and expenses; and the court upon the application of a person to whom awards shall have been made or of a person in whose favor costs and

expenses shall have been taxed may direct the board of estimate and comptroller to raise the money necessary to pay such awards, costs and expenses and that the same be paid from the fund, except that when any award shall in the report be made to unknown owners, the court shall, upon the application of the city or of any person claiming to be interested in the real property for which such award shall have been made or any part thereof, direct the same to be retained or paid into court until the title thereto shall have been determined by the court and the court may take the proof or refer the matter to a referee.

§ 1324. Moneys of persons under disability; how disposed of; moneys paid to wrong person. When an owner in whose favor an award shall have been reported be under legal disability or absent from the city and when the name of an owner be not set forth in the report or when the owner, although named therein, cannot upon diligent inquiry be found or where there are conflicting claims to an award the city shall pay such award with interest into court to be secured, disposed of, invested and paid out as other trust funds paid into court to the credit of such owner or claimant as may establish his claim thereto, and such payment shall be as valid and effectual as if made to the owner; and in default of such payment the city shall remain liable for such award with lawful interest from a day one year after the confirmation of the report. When an award is paid to a person not entitled thereto the person to whom it ought to have been paid may sue for and recover the same with interest and costs as so much money had and received to his use by the person to whom the same shall have been so paid. Payment of an award, to the persons named in the report, if not under legal disability, shall in the absence of notice to the comptroller of adverse claims thereto protect the city.

§ 1325. Sums to be proportionately assessed. All moneys paid by the city except such part as the board of estimate direct to be borne by the city or a borough or boroughs or by the city and a borough or boroughs shall be assessed proportionately, as far as practicable, upon the real property which the board of estimate deem benefited and shall be a lien thereon and be levied and collected in the manner provided by law for the assessment, levy and collection of similar expenses and disbursements for the reimbursement of the city treasury.

§ 1326. Sums assessed to be liens. The sums assessed for benefit by the commissioner of assessment shall be a lien or charge

on the real property specified in the report, but nothing herein contained shall affect any agreement between landlord and tenant or other contracting parties respecting the payment of such assessment.

§ 1327. Report of assessment to be transmitted to chamberlain. The corporation counsel shall transmit to the chamberlain immediately after the confirmation of an assessment made pursuant to this article a duplicate copy of the report of the commissioner of assessment relating thereto; and if such assessment affect property in boroughs other than the borough of Manhattan a triplicate copy of the assessment list and a certified copy of the order confirming the same.

§ 1328. Assessment may be set off against award. If an owner to whom an award shall have been made also own property against which an assessment shall have been entered for collection in the same proceeding he may, at any time prior to receiving payment of the award, apply to the comptroller and chamberlain to have the award set off against the assessment and they shall thereupon make such set-off as of the date of the entry of the assessment for collection. If the award exceed the assessment the city shall be liable for interest after the date of the set-off only on the amount of such excess. If the assessment exceed the award the owner assessed shall be liable for interest after the date of the set-off on the amount of such excess as if no set-off had been made. If it appear by the reports of the commissioners or otherwise that a person entitled to an award also owns property against which an assessment in the same proceeding shall have been entered for collection, the city may, without the assent of the person entitled to the award, set off the assessment against the award. Such set-off shall be made by the city in the same manner and have the same effect as if made on the application of the person entitled to the award.

§ 1329. Drains; acquisition of real property for. In a proceeding to acquire the right of way over, under or through real property required for a drain the time provided in this article for the publication of any notice shall be reduced one-half; and the time for the sitting of the commissioners to hear objections to their report shall be two days instead of ten days. Maps that may be required shall be furnished by the borough president charged with the construction of the drain and be prepared by surveyors in the regular employment of the borough president. No expense of such maps or other ex-

pense shall be included in the assessment except the fees of the commissioners and their necessary disbursements not exceeding two hundred and fifty dollars for clerical services, and for advertising, printing or posting notices and other incidental expenses a sum not exceeding one hundred dollars. Each commissioner shall be entitled to receive the following compensation for his services: Where the drain is five hundred feet or under in length, twenty-five dollars; where the drain exceeds five hundred feet in length, twenty-five dollars and five cents per foot for each running foot of drain in excess of five hundred feet, but in no case exceeding two hundred and fifty dollars.

### ARTICLE 3.

#### PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR WATER-SUPPLY PURPOSES.

Section 1340. Acquisition of real property for water-supply purposes authorized.

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Section 1340. Acquisition of real property for water-supply purposes authorized. When the board of estimate deem it necessary for the city to acquire, take or use real property for the purpose of maintaining, preserving or increasing the supply of pure and wholesome water for the use of the city or for the purpose of preventing the contamination or pollution thereof the city may, in the manner herein prescribed, acquire any or all right, title and interest in and to such real property; provided that it shall not have power to acquire or to extinguish the property rights of any person or corporation in or to any water rights that at the time of the initiation of proceedings for condemnation are in actual use for the supply of the waterworks of the people of any other municipal corporation or for the supply and distribution of waters to the people thereof or which in the opinion of the court on such proceedings may reasonably become necessary for such supply.

§ 1341. Relocation of railroads and highways. When real property acquired or used for railroad, highway or other public purpose be required for water-supply purposes the owner shall be allowed the perpetual use of the same or of other real property adapted to and adequate for the same purpose and shall not be subjected to expense, loss or damage by reason of any change of route or location. When such real property is sought to be taken or affected for water-supply purposes there shall be designated upon the maps and described in the petition referred to in this article such other real property as it is proposed to substitute for that to be taken. The supreme court shall either approve the substitute route or location or refer the same back to the board of estimate for alteration or amendment as often as necessary and until the board determine such substituted route or location as may be approved by the court. An appeal to the appellate division from any order under the provisions of this section may be taken by any person aggrieved thereby and shall be heard as a non-enumerated motion. The board of estimate shall provide for the reconstruction of such railroad or highway and provide for the payment of the cost thereof. The supreme court shall determine, subject to review by the appellate division, what reasonable time after such reconstruction shall be sufficient within which to complete the change and the city shall not be entitled to take possession or interfere with the use of such real property before the expiration of such time. Such time may be subsequently extended by the court, subject to review as aforesaid. After the expiration



of the time so determined or extended no use shall be made of such real property which shall pollute the water or obstruct the flow of water or interfere with any construction of water-supply purposes.

§ 1342. Map to be prepared; public hearing. When the board of estimate deem it necessary to acquire real property for water-supply purposes, the board shall cause to be prepared a map of such real property. A copy of the map so prepared with a certificate of the adoption thereof signed by the secretary of the board shall be filed in the office of the commissioner of water, gas and electricity and be open to public inspection and shall be the map of the real property to be acquired, subject to such changes or modifications as the board may from time to time deem necessary. Prior to the final adoption of such map the board shall afford to all persons interested a full opportunity to be heard and present evidence respecting it and the acquisition of the real property shown thereon and shall give public notice of such hearing by publication once in each week for three successive weeks and in two newspapers published in the county or counties in which the real property to be acquired or affected is situated.

§ 1343. Power to enter upon lands for purpose of making maps. The city may enter in the daytime upon real property and any land or water on or contiguous to the line, course, site or track of a pond, lake, stream, reservoir, dam, aqueduct, culvert, sluice, canal, bridge, tunnel, pumping works, blow-off, shaft or other appurtenance for the purpose of making surveys or examinations and posting notices.

§ 1344. Details of maps. After adopting the map the board of estimate shall cause to be prepared six similar maps of the proposed site of any dam, reservoir, aqueduct, sluice, culvert, canal, pumping works, bridge, tunnel, blow-off, ventilating shaft and other necessary appurtenance of the work. Upon such maps there shall be laid out and numbered the various parcels of real property on, over or through which the work is to be constructed and maintained or which may be necessary for its prosecution and the natural and artificial division lines on the surface at the time of the survey and there shall be plainly indicated of which parcels the fee or other interest is to be acquired. Such maps may be made and filed in sections. One or more sections may be filed and proceedings and the work thereon may be begun before the maps of the remaining sections

are filed. The maps when adopted by the board of estimate shall be transmitted to the corporation counsel with a certificate of approval thereon signed by the secretary of the board.

§ 1345. Maps to be filed. The corporation counsel shall file one of said maps in the office of the recording officer of each county in which any real property laid out on said maps is located. The fourth, fifth and sixth maps shall be delivered to the commissioners as hereinafter provided.

§ 1346. Corporation counsel to conduct proceedings. After the maps shall have been filed the corporation counsel shall, after notice as required in the next section, apply to the supreme court for the appointment of commissioners of appraisal upon a petition signed and verified by the commissioner of water, gas and electricity setting forth the action taken by the board of estimate, the filing of the map, a general description of the real property sought to be acquired, each parcel being more particularly described by a reference to the number of the parcel given on the map, and the title, interest or easement sought to be acquired in each parcel and praying the appointment of commissioners to appraise the same.

§ 1347. Notice to be given. The corporation counsel shall cause notice to be published in the City Record and in two newspapers published in each county in which any real property laid out on said maps is located if located outside of the city of his intention to apply for the appointment of such commissioners specifying the time and place of such application, the object of the application, and describing the real property sought to be taken. A statement of the boundaries of the real property with separate enumerations of the numbers of the parcels to be taken in fee and of the numbers of the parcels in which any other interest is to be acquired with reference to the date and place of filing the map shall be sufficient description. Such notice shall be published once in each week in the City Record and in each of said newspapers for six weeks immediately previous to the presentation of the petition; and the corporation counsel shall cause copies of the same, in handbills, to be posted in at least twenty conspicuous places in the vicinity of the real property at least six weeks prior to said application.

§ 1348. Motion for appointment of commissioners of appraisal. At the time and place mentioned in the notice or at the time to which the application may be adjourned the court, upon proof

to its satisfaction of the publication and posting aforesaid and upon filing the petition, shall appoint three disinterested and competent freeholders of whom one shall reside in the county of New York, one in the county in which the real property to be acquired is situated and the third in some other county commissioners of appraisal to appraise the just and equitable compensation to be made to the owners of the real property to be taken. The order shall fix the time and place for the first meeting of the commissioners.

§ 1349. City to become seized of real property. On filing the oaths of the commissioners the city shall become seized in fee of all those parcels shown on the map of which it has been determined that the fee shall be acquired and shall be entitled to take and hold such interest in the parcels in which it has been determined that the fee shall not be acquired as shall have been shown on the map and described in the petition, and may immediately or at any time take possession without any suit or proceeding. But at any time prior to the payment of the award therefor the supreme court, for due cause, may alter, revoke or annul the taking of any interest or fee, in which case the prior owner to whom such interest or fee shall thereupon revert shall be entitled to whatever damage he has sustained by reason of such taking or possession by the city.

§ 1350. Proceedings of commissioners. A commissioner may take proof and testimony and in the absence of the other commissioners may adjourn the proceedings from time to time. The commissioners shall continue to meet from time to time, not to exceed two years, to hear and determine all claims which may be presented to them. In case of death, resignation, refusal, neglect or inability to serve, or failure to qualify of a commissioner the corporation counsel shall, upon ten days' notice to be given by publication in the newspapers designated in this article, apply to the supreme court for the appointment of a commissioner to fill the vacancy. When the commissioners meet, except by appointment of the court or pursuant to adjournment, they shall cause reasonable notice to be given to the attorneys for such parties as have appeared. The commissioners shall procure from the corporation counsel the fourth, fifth and sixth maps. They shall view the real property laid down on said maps and hear the proofs and allegations, if any, of any owner or person interested in the real property and of the city. They shall also determine the height to which the waters of any lake,

pond or natural stream concerning which such proceedings were instituted may be raised and the point to which such waters may be drawn down by the city before any award of damages shall be made on account of such proposed raising or depressing, and they may recommend what sum shall be paid to the general or special guardian or committee of a party under legal disability. After the testimony is closed they shall without unnecessary delay determine the award which ought justly to be made by the city to the owners. The commissioners shall report their proceedings to the court with the minutes of the testimony, if any, taken by them.

§ 1351. Commissioners to prepare report. The commissioners shall prepare a report and a copy or copies thereof as may be required to which shall be respectively annexed the fourth and fifth and, if required, the sixth map. The report shall contain a brief description of the parcels taken with a reference to the map as showing the location and boundaries of each parcel; a statement of the sum determined as a just compensation to be made by the city to the owner of each parcel and a statement of the respective owners and persons interested therein; but where the owners or parties interested or their estates or interests are unknown or not fully known to the commissioners it shall be sufficient to state the sums to be allowed to the owners and parties interested generally.

§ 1352. Report to be filed. The report signed by the commissioners or a majority of them shall be filed in the office of the clerk of each county in which the real property is situated. The commissioners shall notify the corporation counsel as soon as the report is filed.

§ 1353. Notice of motion to confirm report. The corporation counsel shall, or if he neglect to do so within twenty days after notice of filing, any person interested may give notice that the report will be presented for confirmation to the supreme court at a specified time and place. The notice shall contain a statement of the time and place of the filing of the report and shall be published in the newspapers, designated as provided in this article for the publication of notice of intention to apply for the appointment of commissioners, once in each week for at least four weeks immediately prior to presentation.

§ 1354. Confirmation of report. The application for confirmation of the report shall be made as specified in the notice. Upon the hearing the court may confirm the report or in its

discretion order that the report or any portion thereof affecting one or more parcels be referred to new commissioners for a new hearing. If confirmed the court shall make an order containing a recital of the substance of the proceedings with a general description of the real property and direct to whom the money is to be paid or in what trust company it shall be deposited. Such report when so confirmed shall, except in the case of an appeal, be final and conclusive upon the city and the owners and all persons interested in the real property and also upon all other persons.

§ 1355. Payment of awards. The city shall, within four calendar months after entry of the order confirming the report, pay to the owners mentioned in the report in whose favor any awards shall be reported the sums so reported with lawful interest from the date of filing the oaths of the commissioners. In case of default in the payment of the awards within such time a person in whose favor an award shall have been reported or his legal representatives at any time after demand filed with the comptroller for payment may sue for and recover the same with lawful interest and the costs of suit and it shall be sufficient to declare generally for so much money due to the plaintiff by virtue of this article for real property taken; and the report and order confirming the report of said commissioners with proof of the right and title of the plaintiff to the sum demanded shall be conclusive evidence in such action and entitle plaintiff to judgment.

§ 1356. Sum awarded to be deposited in certain cases. When an owner in whose favor an award shall have been reported shall be under legal disability or absent from the state without appearance by attorney or when the name of an owner be not stated in the report or where such owner being named therein cannot, upon diligent inquiry, be found, or where there are conflicting claims to an award the city may pay the award with interest into such trust company as the court may in the order of confirmation direct to the credit of such owner and such payment shall be as valid and effectual as if made to such owner; and where any such award shall have been paid to a person not entitled thereto the person to whom the same ought to have been paid may sue for and recover the same with interest and costs as so much money had and received to his use by the person to whom the same shall have been so paid.

§ 1357. Who may present claim before commissioners. An owner or person interested in real property taken or used and occupied for purposes contemplated by this article and claiming

compensation for such taking, use or occupation shall, within one year after the appointment of commissioners, exhibit to the commissioners a statement of claim and may offer testimony and be heard before them touching such claim and the commissioners shall determine the same and the compensation therefor. A person failing to present his claim within such time shall be deemed to have surrendered his title or interest in such real property or his claim for damages thereto, except so far as he may be entitled to the sum of money awarded by the commissioners, or part thereof.

§ 1358. City protected by payment. Payment of the award to the person named in the report, if not under legal disability, shall, in the absence of notice to the comptroller of other claimants to such award, protect the city.

§ 1359. Separate reports may be made. The commissioners of appraisal may take up any specified claim and finally determine the award to be made therefor and make a separate report with reference thereto annexing to such report a copy of so much of the maps as will show the parcel so reported on.

§ 1360. Proceedings in case of an appeal. Pending an appeal in a proceeding authorized by this article, the amount of the award with interest to date shall be deposited in such trust company as the court direct and the funds so deposited shall remain with the trust company subject to the further order of the court. In the case of a new appraisal in such a proceeding the second report shall be final and conclusive on all parties. If an award be increased by the second report the difference shall be paid to the owner or deposited as the court may direct; and if the amount be diminished the difference shall be refunded to the city by the trust company.

§ 1361. Removal of commissioners. The court may at any time remove any commissioner who shall be dilatory or inefficient or who, in its judgment, shall be incapable of serving, or for any reason unfit to serve. The cause of such removal shall be specified in the order making the same.

§ 1362. Compensation and expenses of commissioners. Each commissioner shall receive compensation at the rate of five dollars an hour on each day upon which he attends a meeting of the commissioners and is actually and necessarily employed in the performance of the duties imposed upon him not to exceed twenty dollars for the day, provided the time necessarily required and actually spent at such meeting exceed one hour; and for each

other meeting attended by the commissioner in which he is actually and necessarily employed in the performance of his duties he shall receive five dollars. In proceedings of a difficult or unusual character the court may, upon taxing the fees and expenses of the commissioners make such additional allowances, with the approval of the corporation counsel, to any or all of the commissioners as may to the court appear just and equitable upon such proof as may be submitted concerning the nature and extent of the services rendered by the commissioners. The corporation counsel shall, either in person or by such assistants or other counsel as he may designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners under this article including the taxation of fees, compensation and expenses. The fees of the commissioners and their necessary traveling expenses shall be paid when taxed before a justice of the supreme court upon eight days' notice to the corporation counsel. The corporation counsel shall present upon such taxation his certificate that the items have been audited by him and the result of such audit. The fees of the commissioners shall not be taxed until their final report shall have been signed and filed.

§ 1363. Present proceedings to be continued. All proceedings now pending for the acquisition of title for any of the purposes in this chapter specified shall be continued and prosecuted to a conclusion according to the provisions of law under which such proceedings shall have been commenced.

#### ARTICLE 4.

##### PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR GENERAL PURPOSES.

###### Section 1370. Application of article.

1371. Maps may be prepared.

1372. Appointment and qualification of commissioners.

1373. Duties of commissioners.

1374. Reports of commissioners; presentation thereof to the court.

1375. Confirmation of report; vesting of title.

1376. Copy of report to be filed with recording officer.

1377. When title may be vested by resolution.

1378. Notice of deposit and presentation of report; payments of awards with interest.

1379. Owners unknown or under disability.

**Section 1380. Removal of commissioners.****1381. Powers of commissioners; fees; expenses.****1382. Effect of reversal on appeal.****1383. Source of payment of awards and expenses.****1384. Proceedings excepted from provisions of this article.**

**Section 1370. Application of article.** When the city or any department, board, body or officer of the city or a county be authorized by law to acquire title by condemnation to real property for any public use or purpose the proceedings shall be taken and conducted in the manner prescribed in this article, except as otherwise provided in this chapter.

§ 1371. Maps may be prepared. When any real property shall have been selected for any city or county purpose except for the improvement of the water front or for ferry purposes or any purpose other than one specified in any one of the preceding articles of this chapter and the board of estimate shall have determined to take proceedings for the acquisition of the same, the board shall cause two similar surveys, maps or plans thereof to be prepared, one of which shall be filed in the office of the board and the other of which shall be filed in the office of the recording officer of the county in which the real property is situated.

§ 1372. Appointment and qualification of commissioners. After the filing of the maps, plans or surveys in the offices of the board of estimate and the recording officer of such county and after the acquisition of the real property shall have been authorized by the board of estimate the corporation counsel shall cause to be published notice of his intention to apply to the supreme court for the appointment of commissioners of appraisal specifying therein the time and place of such application, the object of the application and describing generally the real property intended to be taken. Such notice shall be published in six successive issues of the City Record and upon the completion of such publication the corporation counsel shall present to the supreme court a petition, signed and verified by the mayor, or comptroller, setting forth the action taken by the board of estimate, the filing of said maps, plans or surveys and praying for the appointment of commissioners of appraisal. At the time and place mentioned in the notice or at the time and place to which the hearing may be adjourned by the court, upon filing the petition and proof to its satisfaction of the publication of the notice, shall appoint



three discreet and disinterested persons, citizens of the United States and residents of the city, commissioners of appraisal. In the order the court shall fix the time and place for a hearing as to the qualifications of the persons named as commissioners. Ten days' notice of the appointment of the commissioners shall be given by the corporation counsel, by mail or otherwise, to such parties or their attorneys as shall have filed notice of claim or of appearance in the proceeding and such notice shall be published in six successive issues of the City Record. The notice shall specify the time and place when parties may be heard by the supreme court as to the qualifications of the person appointed commissioners. Such persons shall attend at the time and place fixed in the notice and be examined under oath as to their qualifications. They shall be subject to challenge by any person having an interest in the proceeding upon any ground which would disqualify a judge or juror and such challenge must be tried and determined by the court and the determination of the court may be excepted to and reviewed in the manner now prescribed by law in respect to the challenge of jurors. Should the court sustain the challenge to any commissioner another person must be appointed in his stead. The person or persons thus substituted shall be subject to challenge in the same way as above provided to be heard and determined by the court at such time and place as the court may direct.

§ 1373. Duties of commissioners. The commissioners, after having viewed the real property required for public uses, shall make a just and equitable appraisal of the damage to the respective owners of such real property.

§ 1374. Reports of commissioners; presentation thereof to the court. The commissioners shall, within six months from the date of filing their oath, report to the supreme court with the minutes of the testimony taken by them under penalty of forfeiting all fees to which they would be entitled, unless an extension of time be granted by the court upon a written petition containing a statement by the commissioners of the reasons therefor and upon notice to the corporation counsel and to the parties or their attorneys who have appeared in the proceeding. The court may make such order in respect to the time and manner of completing the report, the taking and submission of the proofs and the number and length of the hearings to be held in each week as will enable the commissioners to complete their proceedings with reasonable dispatch. If it appear that the proceedings have been delayed by

reason of the inattention or neglect of a commissioner the court may remove such commissioner and appoint a successor. The report shall contain a brief description of the parcels of real property taken with a reference to the map showing the location and boundaries of each parcel, a statement of the sum determined upon as a just and equitable compensation to be made by the city therefor and of the names of the owners so far as ascertained. If the commissioners be unable to ascertain the name of the owner or owners of a parcel they shall state that the owners of such parcel are unknown. After the commissioners shall have offered the parties interested an opportunity to file objections, the report signed by the commissioners or a majority of them shall be filed in the office of the secretary of the board of estimate and a duplicate in the office of the clerk of the county in which the real property is situated. Thereupon the corporation counsel shall or in case of his neglect to do so within ten days after such filing any person interested may give notice that the report will be presented to the supreme court for confirmation at a time and place specified. Such notice shall contain a statement of the time and place of the filing of the report and shall be published in ten successive issues of the City Record immediately prior to the presentation of the report and a copy of said notice shall be served by mail or otherwise upon the attorney for each party who shall have appeared in the proceeding, at least five days before such presentation.

§ 1375. Confirmation of report; vesting of title. Upon the hearing of the application for the confirmation of the report the supreme court shall either confirm the report in whole or in part or refer the same back to the same commissioners for revision and correction or to new commissioners to be appointed by the court. The commissioners to whom the report shall be referred shall return the report, corrected and revised or a new report to be made as aforesaid to the court without unnecessary delay, and the same shall be confirmed or again referred as justice require, and such report or part thereof when so confirmed by the court shall be final and conclusive upon all parties. On the final confirmation of the report the city shall, unless title shall have vested as hereinafter provided, become seized in fee simple absolute of the real property included therein; and the city acting by and through the department, board, body or officer which, upon the acquisition of the title to the real property, will have jurisdiction thereof shall take immediate possession of such real property without suit or other judicial proceedings.

§ 1376. Copy of report to be filed with recording officer. Within ten days after the entry of the order confirming the report the corporation counsel shall file a copy of such order in the office of the recording officer of each county in which the real property or a part thereof is situated. There shall be endorsed upon such copy a reference to the section and block or the sections and blocks on the land map of the county which include the real property taken and the recording officer shall enter in the index of conveyances on each block so endorsed the title of the proceeding and the date of entry of the order confirming the report.

§ 1377. When title may be vested by resolution. Should the board of estimate by resolution adopted by a three-fourths vote deem it for the public interest that the title to the real property or any part thereof or any interest therein should be acquired by the city at a specified time, the board may direct by resolution passed before or after the application for appointment of commissioners that at a date subsequent to the filing of the commissioners' oaths and specified in such resolution the title to such real property or part thereof or interest therein shall vest in the city. At the date so specified the city shall become seized in fee of the real property or interests therein mentioned in such resolution. In such case the awards for such real property or interests therein shall bear interest from the date of vesting of title in the city to the date of the payment of the award. Upon such vesting the city acting by and through the department, board, body or officer which upon the acquisition of the title to said real property will have jurisdiction thereof shall immediately take possession of such real property without suit or other judicial proceedings.

§ 1378. Notice of deposit and presentation of report; payments of awards with interest. The commissioners before presenting their report shall deposit a true abstract of their appraisal in the office of the board of estimate for inspection and shall give notice by publication for ten days of the date and place of such deposit and that any person interested in the proceeding and who may object to the same or any part thereof may, within ten days after the first publication of such notice, set forth his objections to the same in writing, duly verified, in accordance with the provisions of the civil code relating to the verification of pleadings in courts of record to the commissioners. The commissioners after hearing the parties so objecting shall reconsider their appraisal or the part thereof objected to and correct the same if it appear to them to require correction. The city shall, within two calendar

months after the confirmation of the report, pay to the parties entitled thereto the sums awarded and reported in their favor, respectively, with interest from the date of entry of the order confirming the report or if title shall have theretofore vested in the city, from the date of such vesting; and in default thereof the parties or their legal representatives, successors or assigns may, at any time after demand upon the comptroller for payment, sue for and recover the same with lawful interest and costs. Upon such application the applicant may state that outstanding taxes or assessments may be deducted from the amount otherwise payable and such outstanding taxes or assessments shall not invalidate the application or operate as a bar to the collection of interest upon the award less the amount of such taxes or assessments.

§ 1379. Owners unknown or under disability. When an owner in whose favor an award shall have been reported be under legal disability or absent from the city or when the name of an owner be not stated in the report or when the owner named therein cannot upon diligent inquiry be found or where there are conflicting claims to an award the city shall pay the award with interest into the supreme court to be secured, disposed of, invested and paid out as other trust funds paid into court to the credit of such owner or claimant as may establish his claim thereto; and such payment shall be as valid and effectual as if made to the owner; and in default of such payment it shall remain liable for the amount due to such owner, with interest, from the day upon which the title vested in the city. When an award shall be paid to a person not entitled thereto the person to whom it ought to have been paid may sue for and recover the same with interest and costs as so much money had and received to his use by the person to whom the same shall have been so paid. Payment of an award to the persons named in the report (if not under legal disability) shall, in the absence of notice to the comptroller of adverse claims thereto, protect the city. The commissioners shall set forth in their report the names of the owners of the real property and each parcel thereof as far as ascertained by them and add a designation and description of each parcel and the several awards made therefor.

§ 1380. Removal of commissioners. The supreme court may at any time remove a commissioner if in its judgment he be incapable of serving or for any reason unfit to serve. The cause of removal shall be specified in the order of removal. If a com-

missioner die, resign, fail to qualify, become insane or be disqualified or refuse or neglect to act or be removed the court may as often as necessary, on the application of the board of estimate, appoint a new commissioner in the same manner as commissioners were originally appointed in the place of such commissioner and the remaining commissioners may proceed with the execution of their duties until the new commissioner qualify. Ten days' notice of the application shall be given to all parties who have appeared in the proceeding. The new commissioner shall possess the same qualifications and be subject to challenge upon the same grounds and in the same general manner as hereinbefore provided for; and the time and place for such challenge shall be specified in the order appointing the new commissioner.

§ 1381. Powers of commissioners; fees; expenses. A commissioner may take proof and testimony. Each commissioner shall receive, upon the confirmation of the report or of the termination of the proceedings, compensation at the rate of five dollars an hour on each day upon which he attends a meeting of the commissioners and is actually and necessarily employed in the performance of the duties imposed upon him at the office provided for the commissioners or at a meeting to view real property not to exceed twenty dollars for the day, provided the time necessarily required and actually spent at such meeting exceed one hour; and for each other meeting attended by the commissioner in which he is actually and necessarily employed in the performance of his duties he shall receive five dollars. The fees of the commissioners and other reasonable expenses shall be taxed by the court together with the expenses incurred for maps, surveys, clerk hire and other necessary disbursements, and the same shall be paid as part of the expenses of acquiring the real property; provided, however, that in a proceeding now pending or hereafter instituted pursuant to the provisions of this article or pursuant to the provisions of any other act providing for the acquisition of real property for the city for any public purpose which is of a difficult or unusual character the court upon taxing the costs and expenses of commissioners may, with the approval of the corporation counsel, make such additional allowances to any or all of the commissioners as may to it appear just and equitable upon such proof as may be submitted concerning the nature and extent of the services rendered by the commissioners.

§ 1382. Effect of reversal on appeal. The reversal on appeal of the order of confirmation shall not divest the city of title to the real property affected thereby.

§ 1383. Source of payment of awards and expenses. The awards made in a proceeding brought under this article, and the fees of commissioners, the compensation of clerks, assistants and counsel and other necessary expenses shall be paid out of the fund authorized by the act, ordinance or resolution authorizing the acquisition of the real property. Such fees and expenses shall not be paid until they shall have been taxed by the supreme court upon five days' notice to the corporation counsel and upon proof of the nature and extent of the services rendered and disbursements charged. No unnecessary costs or charges shall be allowed. All costs, fees, expenses or disbursements to be taxed shall be stated in detail in the bill of costs and shall be accompanied by such proof of the reasonableness and necessity thereof as is now required by law and the practice of the court in special proceedings or actions. Proof by affidavit shall also be given of the dates of rendering services and, in the case of commissioners and clerks receiving a per diem allowance, the number of hours and parts of an hour necessarily occupied upon each date. No claim for compensation shall be taxed or paid except upon a certificate of the corporation counsel that the items have been audited by him and the result of such audit.

§ 1384. Proceedings excepted from provisions of this article. This article shall not apply to proceedings to acquire real property for street purposes or for the improvement of the water front of the city or for ferry purposes or drains, sewers or for water-supply purposes or to any proceedings instituted under the provisions of chapter ten hundred and six of the laws of eighteen hundred and ninety-five or of any act amending or supplementing either of such statutes.

## CHAPTER XXXVIII.

## ACTIONS AND DEFENSES.

Article 1. General provisions. (§§ 1390-1397.)

2. Abatement of nuisances. (§§ 1410-1418.)

## ARTICLE 1.

## GENERAL PROVISIONS.

Section 1390. Appearance by city; actions to be brought against the city.

1391. Tort claims.

1392. Other claims.

1393. Evidence of agreement inadmissible.

1394. Process; trial; execution.

1395. Enforcement of ordinances.

1396. Injunctions.

1397. Existing rights and remedies preserved.

Section 1390. Appearance by city; actions to be brought against the city. In all actions and proceedings heretofore commenced and now pending by reason of which there may be a liability on the part of the city against any officer of the city or against a department, board, body or subordinate thereof or in which an act, order, regulation or proceeding of a department, board, body, office or officer or employee thereof is called in question or made the subject of the action or proceeding the city shall have the right to appear and take part. Except as otherwise provided in this act, all actions hereafter commenced as a result of which there may be a liability on the part of the city, including actions affecting corporations subsidiary to the city and having a separate corporate existence, shall be commenced and maintained against the city; provided, that nothing contained in this article shall be deemed to repeal, alter or otherwise affect any provision of law or rule of procedure in respect to the application for, or the granting or enforcement of a state writ. Except as otherwise provided in this act, all actions and proceedings brought by or in behalf of the city shall be brought in the name of the city.

§ 1391. Tort claims. An action against the city or a county for damages on account of death, personal injuries or for the destruction of or injury to property shall not be prosecuted or maintained unless it appear as an allegation in the complaint that at least forty days have elapsed since the claim therefor was presented in writing to the corporation counsel and that no adjustment thereof

has been made, although afforded an opportunity for the examination of the claimant and each assignor; and in case of claims against the city hereafter accruing for damages for personal injuries or for death or for injury to property or for the destruction thereof alleged to have been sustained by reason of the negligence of or the creation or maintenance of a nuisance by the city or any department, board, body, officer, agent or employee thereof no action thereon shall be maintained against the city unless such action be commenced within one year after the cause of action shall have accrued or unless notice of intention to commence such action and of the time when and place where the damages were incurred or sustained and in the case of injury to or destruction of property, a verified statement showing in detail the property alleged to have been injured or destroyed and the value thereof shall have been filed with the corporation counsel within six months after such cause of action shall have accrued.

§ 1392. Other claims. All claims other than those mentioned in the preceding section must be filed with the comptroller who shall have at least thirty days within which to adjust and audit such claims. No action or proceeding shall be prosecuted or maintained against the city except as provided in the preceding section, unless it appear by and as an allegation in the complaint or moving papers that a claim has been filed with the comptroller, that more than thirty days have elapsed since the claim was filed and that it has not been adjusted and paid. The provisions of this section shall not apply to proceedings for mandamus.

§ 1393. Evidence of agreement inadmissible. In an action or proceeding against the city upon a claim which the comptroller is authorized to audit, if the amount claimed by the plaintiff be in excess of the amount audited and allowed by the comptroller, in establishing his claim no evidence shall be admitted to show a promise or agreement by an officer or employee of the city or of a county to pay a larger sum than the amount audited and allowed.

§ 1394. Process; trial; execution. In actions and proceedings against the city

1. All process and papers for the commencement thereof shall be served upon the corporation counsel;

2. Trial shall be had in the county of New York or, if the cause of action arose within the city, in the county in which the cause of action arose or in the county of New York, subject to the power of the court to change the place of trial as provided by law;



3. No execution shall be issued upon a judgment recovered against the city until twenty days after a transcript of such judgment shall have been filed with the comptroller and a copy of the judgment and written notice of entry thereof shall have been served on the corporation counsel.

§ 1395. Enforcement of ordinances. The city may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with an ordinance or restrain by injunction a violation thereof, notwithstanding that a penalty be provided for its violation.

§ 1396. Injunctions. No preliminary injunction shall be granted against the health or tenement house department or an officer or employee thereof, except by the supreme court after service of at least five days' notice of the motion for such injunction together with copies of the papers upon which the motion for the injunction is to be made.

§ 1397. Existing rights and remedies preserved. No right or remedy shall be lost, impaired or affected by reason of this act, nor shall the same affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act shall take effect or by virtue of any laws repealed or modified by this act, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed or said laws had not been repealed or modified, and all actions, proceedings or prosecutions under any act repealed or modified by this act, or under any charter or law relating to any of the municipal and public corporations heretofore united and consolidated to form the city of New York and pending when this act shall take effect, including the counties of Kings, Queens and Richmond, may be prosecuted and defended to final effect in the same manner as they might under such laws, unless otherwise expressly provided in this act; and such actions, proceedings or prosecutions may be continued without change of name or title or on motion the city may be made a party or be substituted as plaintiff or defendant.

## ARTICLE 2.

### ABATEMENT OF NUISANCES.

Section 1410. Suits to abate nuisances.

1411. Trial.

1412. Contents of judgment.

Section 1413. Lien of judgment; how removed.

1414. Appeals and stays.

1415. Judgment of appellate division.

1416. Statement of expense of execution.

1417. Execution.

1418. Injunction.

Section 1410. Suits to abate nuisances. The city may institute and maintain in any court in the city having jurisdiction of an action to recover a sum of money only where the amount claimed exceeds one thousand dollars an action at law or suit in equity to abate a nuisance declared to be a nuisance by or pursuant to statute or ordinance. It may join therein a cause of action for a penalty or penalties incurred by a defendant in respect of such nuisance. Costs collected shall be paid to the city chamberlain. The court shall allow the plaintiff, at any proper stage of the case, to amend by joining other parties defendant; and a suit shall not be dismissed or defeated by reason of the nonjoinder of parties defendant.

§ 1411. Trial. Such suit shall be tried by the court without a jury, unless a defendant shall in his answer or by notice in writing served on plaintiff's attorney within five days after service of his answer, demand a trial by jury on a question of fact, to be distinctly stated, and in respect of which a right of trial by jury exists. If such demand be so made and served, the case shall as to all the defendants be placed on the calendar of jury trial cases as a preferred case; and when moved for trial, if issues of fact for the jury have not before been settled, the presiding judge may state in writing the issues of fact to be submitted to the jury or if he does not do so the trial shall proceed upon the material issues of fact made by the pleadings. The judge who presided at the trial or another judge of the same court, if such judge be unable to proceed therewith, shall settle and cause to be entered the proper judgment.

§ 1412. Contents of judgment. If the judgment be that a nuisance be abated in whole or in part it shall contain sufficient directions for its proper execution and the judge shall find and state what proportion of the expense of such execution and what penalties, if any, shall be paid by each or all of the defendants, jointly or severally. If, in the opinion of the court, the whole or any part of the expense of such execution should be borne by the city, or the execution of such judgment should be made by

any department, board, body or office, or under its direction the judgment shall contain the appropriate directions. Such judgment, if against a defendant, shall on its face state that it will be a lien on the real property of such defendant until his proportion of such expenses of execution is satisfied or the lien thereof be otherwise discharged.

§ 1413. Lien of judgment; how removed. Any person prejudicially affected by the lien of any such judgment may, on five days' notice to the corporation counsel, make a motion before a judge of the court in which such judgment was rendered for an order that the lien of the judgment be discharged as to all or any specific property. If it appear to such judge that the judgment has been executed and the expenses secured by the lien paid, or if a sufficient undertaking or bond, with sureties, be given for the payment of such expenses, or if the corporation counsel consent in writing to the discharge of the lien as to any or all property referred to, or as to one or more defendants the judge may order such lien discharged of record by the proper officer to the extent and as to the person or persons specified in the order. The order and moving papers shall be filed as the judge direct.

§ 1414. Appeals and stays. An appeal by a defendant shall only stay the execution of a judgment to the extent in reference to the persons and on the conditions specially ordered by the judge who tried the case, or another judge of the same court, shall, on the settling of the judgment or on motion, on four days' notice to the corporation counsel. If no such order be made, the judgment shall be executed notwithstanding any appeal, undertaking or security and without any liability on the part of any person by reason of any damages or consequences growing out of the execution thereof, whether the same be reversed or not. An appeal by a defendant from a judgment shall be taken within thirty days after notice in writing to the defendant or his attorney of the entry of judgment, and the judge who tried the case may order a stay of execution of the judgment for such period. Within such period an undertaking or security on appeal must be filed, of the form and obligation required in ordinary appeals from judgments and conditioned also for the payment of the appellant's adjudged share of the expenses of executing the judgment or, if not estimated in said judgment as the judge, on application and three days' notice to the corporation counsel, estimate in conformity with the judgment for the purpose of

determining the amount of security on appeal. If the appeal be not so perfected the execution of a judgment against a defendant shall not be delayed beyond thirty days from its entry. The city may appeal from the whole or any part of the judgment within thirty days after entry and such appeal shall operate as a stay as to the part of the judgment appealed from.

§ 1415. Judgment of appellate division. If judgment of the appellate division modify the judgment appealed from, it shall contain specific directions as to its execution. Either party may appeal to the court of appeals and the provisions of this chapter as to appeals from the judgment to the appellate division and as to the security on appeal, including the length of time within which to appeal, apply to such appeal.

§ 1416. Statement of expense of execution. If the corporation counsel decide that the public interests demand the execution of a part only of the judgment, a verified statement of the expenses of the execution of such part shall be made containing an apportionment thereof, which shall not be contrary to any provisions of the judgment. Such statement shall be filed with the judgment and notice of such filing and a copy of the statement shall be served on the attorneys of the defendant in the suit or the defendants or one of the joint defendants. Unless within ten days after such service, such defendants give notice in writing to the corporation counsel of a motion and serve therewith copies of affidavits to correct such statement in particulars separately and clearly stated in such affidavits, the statement shall be final and no formal defect therein shall vitiate the same. On the hearing of such motion the city may read affidavits in support of such original statement, and the finding of any judge on the hearing of such motion as to such statement of expenses and other matters in such motion involved shall be final and conclusive and not subject to appeal; and such finding, or statement as modified by such finding, when filed, shall be of the same effect as the original statement if no motion in regard thereto had been made, and for the purpose of an execution for such expense, and the creation of a lien under a judgment, such statements and finding or modified statement shall be regarded as a part of said judgment, and the lien thereof shall extend to any amounts stated in such final statement and finding. In so far as a judgment may be directed to be executed at the expense of the city or by any party defendant at his own expense and be by such party defendant so executed the expenses of such execution

shall not be stated or embraced in such statement or findings of expenses; but if any part of the expense of execution aforesaid which any party should have borne or paid be paid, borne or incurred by the city the amount thereof shall be included in such statement and finding and collected by execution.

§ 1417. Execution. For the proportion and amounts as authorized by such judgment and contained in such finding or in such statement or modified statement, when either of the same shall have become final, the city shall have execution, on application ex parte to a judge of the court in which the judgment was recovered, and such execution shall in due form be allowed by such judge. Such execution shall be against any one or more defendants or joint defendants for the recovery of any amount due from such defendant or defendants which the party claiming such execution is entitled to receive and, except as herein specially provided, shall be of the same effect and form as an execution duly issued pursuant to a judgment. No execution shall be issued against any defendant for less than the whole sum due from such defendant or for less than the amount he shall be liable to pay in such suit, except that a sum adjudged against a defendant or defendants costs or for cause other than the expense of the abatement of such nuisance may be collected by separate executions.

§ 1418. Injunction. In an abatement suit the court or a judge thereof may issue and enforce an appropriate preliminary injunction whenever it shall be asked for by the city and there appear to such court or judge to be reasonable cause therefor. Such injunction may also be granted whenever it appear to the court or a judge thereof by affidavit that such injunction is needed to prevent any illegal act, conduct or business or its continuance or any serious danger to human life or serious detriment to health or great public inconvenience concerning any matter or thing to which the provisions of this act relate. In any such injunction order the court may require any building, erection or grounds to be put in a condition that will not be dangerous to the life or detrimental to the health of an occupant before the same shall be leased, rented or occupied or before any rent or compensation shall be collected for the rent or use of the whole or any portion of the same. In such injunction order and also in any judgment the judge or court may require the tenants, lessees and occupants or either or any of

them of any such building, erection or grounds to pay rent thereof or compensation therefor, due or to become due to the city, and the city to collect, receive and apply such rent to the payment of the expenses of putting such building, erection or grounds in a condition that will not be dangerous to life or detrimental to health. Such collections and payments shall be made as the court shall by order or judgment provide; and every such payment to the city and the receipt of the chamberlain for such rent or compensation shall be as effectual to protect any person who has made the same and every such tenant, lessee and occupant and all his and their rights under any lease or occupation, as if such payment had been made to and such receipt had been given by the lessor or owner or any proper claimant of any such rent or compensation who had, but for such order or judgment, the right and authority to receive the same. Any matter or thing which would be the proper subject-matter of a preliminary injunction may be enjoined by the final judgment in a suit brought under this article.

## CHAPTER XXXIX.

### MISCELLANEOUS PROVISIONS.

#### Section 1430. Penalties.

- 1431. Cemeteries in boroughs of Queens and Richmond.
- 1432. Transfer of personnel follows transfer of functions.
- 1433. Determination as to transfer of certain officers and employees.
- 1434. Transfer of powers, duties and records.
- 1435. Transfer of appropriations, property and records.
- 1436. Construction of provisions as to appointment.
- 1437. Current expenses provided for.
- 1438. Sections of Greater New York charter continued in code of ordinances.
- 1439. Extension of application of certain acts.
- 1440. Construction.
- 1441. The public service commissions law or the rapid transit act not to be affected.
- 1442. Board of water supply; act not affected.
- 1443. Power of state and county officers not affected.
- 1444. Tenure of office not affected.
- 1445. Terminal acts not affected.

Section 1446. Franchises and other grants not affected.

1447. Repeal by implication.

1448. Laws repealed.

1449. When to take effect.

Section 1430. Penalties. The violation of or refusal to comply with any provision of this act is a misdemeanor. Punishment for the violation of an ordinance may be fixed in the ordinance or by general ordinance. The violation of an ordinance, unless punishment therefor be otherwise provided by ordinance, shall be punishable by fine not exceeding five hundred dollars or by imprisonment for not exceeding six months, or both such fine and imprisonment. The violation of an ordinance may, in addition to other punishment prescribed therefor if any be made, by ordinance, punishable by a penalty, not exceeding one thousand dollars, recoverable by the city in a civil action.

§ 1431. Cemeteries in boroughs of Queens and Richmond. No person shall hereafter acquire or set apart lands for cemetery purposes in the boroughs of Queens or Richmond. Existing cemetery associations and corporations in the borough of Queens, however, shall have the right to use for cemetery purposes, land lawfully taken by recorded deed or devise and set apart for cemetery purposes or for the purposes of the convenient transaction of their general business prior to or used therefor on July twenty-eighth, nineteen hundred and eleven, and all lands taken by a recorded deed and actually set apart for cemetery purposes prior to June twenty-fifth, nineteen hundred and ten.

§ 1432. Transfer of personnel follows transfer of functions. Where existing powers or duties of a department, board, body, office, division, bureau, position or employment, or officer or employee of the city are, by this act, conferred or imposed upon another department, board, body, division, bureau, office, position or employment, or officer or employee of the city, all officers and employees within the jurisdiction or control of the department, board, body, division, bureau, office, position or employment, or officer or employee now exercising such powers or duties shall, without change of salary, be transferred to the department, board, body, division, bureau, office, position or employment succeeding to such powers or duties. Service in the department, board, body, division, bureau, office, position or employment from which transferred shall for all purposes be counted as service in the department, board, body, division, bureau, office, position or employment to which transferred.

§ 1433. Determination as to transfer of certain officers and employees. When powers or duties of an officer or employee are by this act conferred or imposed upon more than one department, board, body or office, the municipal civil service commission shall determine to which department, board, body or office, the officer or employee exercising such powers and duties shall be transferred.

§ 1434. Transfer of powers, duties and records. Except as otherwise provided in this act, the powers and duties now conferred and imposed upon and the records of the bureaus enumerated below are transferred in each case as follows; the bureau for the collection of taxes and the bureau for the collection of assessments and of such taxes, assessments and water rents as are in arrear, to the department of the city treasury; the bureau of municipal investigation and statistics to the office of the commissioner of accounts and statistics; the bureau for the collection of city revenue and markets, in so far as they relate to market places and market lands, to the department of markets, weights and measures, and the remainder to the department of the city treasury.

§ 1435. Transfer of appropriations, property and records. Where existing powers or duties of a department, board, body, division, bureau, office, officer or employee of the city are, by this act, conferred or imposed upon, or transferred to another department, board, body, division, bureau, office, officer or employee of the city, all funds, property, records, books, papers and documents within the jurisdiction or control of the department, board, body, division, bureau, office, officer or employee now exercising such powers or duties, shall be transferred and delivered to the department, board, body, division, bureau, office, officer or employee succeeding to such powers or duties. There shall be transferred, as the board of estimate direct, the balances of appropriations made for a department, board, body, division, bureau, office, officer or employee applicable to the payment of the expenses of exercising the powers and discharging the duties so transferred.

§ 1436. Construction of provisions as to appointment. In this act unless otherwise expressly stated or the subject-matter otherwise require a direction or power to appoint shall not be construed to require appointment to offices, positions or employments in addition to such as now exist of the same name or title or having similar functions; or as limiting the creation of or appointment to additional offices, positions or employments of the same name or title or having similar functions.



§ 1437. Current expenses provided for. The comptroller shall issue special revenue bonds to the amount that may be required, before appropriation shall have been made therefor and be available, to pay all salaries, compensation, operating and other expenses needed to carry out the purposes of this act for which appropriation has not been made or for the payment of which funds are not available and for which other provision is not made in this act.

§ 1438. Sections of Greater New York charter continued in code of ordinances. The several sections of the Greater New York charter, being chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven as continued in force by chapter four hundred and sixty-six of the laws of nineteen hundred and one, except as repealed by the enactment of ordinances as provided in section three of chapter four hundred and sixty-six of the laws of nineteen hundred and one, set forth in the schedule entitled "first schedule;" and the several sections of the Greater New York charter as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one and the laws amendatory thereof set forth in the schedule entitled "second schedule," notwithstanding the repeal of said charter by this act, shall constitute ordinances and be sections of the code of ordinances, and such sections shall be subject to amendment or repeal by the board of aldermen as are other ordinances.

§ 1439. Extension of application of certain acts. The extension to the city of New York as now constituted, of the acts applicable to the corporation known as the mayor, aldermen and commonalty of the city of New York, made by section sixteen hundred and ten of chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven and section sixteen hundred and ten of chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby continued.

§ 1440. Construction. This act is intended to be and shall be deemed and held in all courts to be a public act, of which they shall take judicial notice. This act shall be construed, not as an act in derogation of the powers of the state, but as one intended to aid the state in the execution of its duties, and shall be liberally construed so as to carry into effect the objects and purposes hereof. A provision of this act, so far as substantially the same or covering the same subject-matter as a law repealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as

a new enactment. References in a law to the provisions of a law incorporated in this act or repealed hereby and incorporated herein shall be construed as applying to the provisions so incorporated. The meaning and effect of the terms and language used herein and of the provisions hereof shall be construed in accordance with the provisions of the general construction law, except where the meaning is defined or the effect is declared in this act. The repeal of the acts or parts of acts enumerated in the schedule of laws repealed shall not be construed as thereby continuing in force any other act or part of act inconsistent with this act. Nothing in this act shall be construed as amending or repealing any provision of the penal law or the criminal code, or as affecting any assessments for local improvements heretofore or hereafter levied against state property for local improvements, or as repealing or modifying any of the provisions of section twenty-one of the public lands law.

§ 1441. The public service commissions law or the rapid transit act not to be affected. Except as otherwise expressly provided in this act, nothing in this act contained shall be deemed to repeal or affect the provisions of the public service commissions law or the rapid transit act. The board of estimate and the comptroller shall be subject to all the duties and obligations prescribed in such acts for the board of estimate and apportionment and comptroller.

§ 1442. Board of water supply; act not affected. Nothing contained in this act shall be deemed or construed to repeal or in any wise to affect chapter seven hundred and twenty-four of the laws of nineteen hundred and five or said act as amended and supplemented.

§ 1443. Power of state and county officers not affected. This act shall not affect the power now possessed by a state or county officer to fix the salary or compensation of an officer or employee.

§ 1444. Tenure of office not affected. Except as otherwise provided in this act, it shall not affect the tenure of a person now holding an office, position or employment in the service of the city or a county. If the title of an office, position or employment be changed by this act, such change of title shall not affect the tenure of the person now holding the same, but he shall continue to hold such office, position or employment as if the title thereof had not been changed.

§ 1445. Terminal acts not affected. Nothing contained in this act shall be deemed or construed to repeal or in any wise to affect

chapter four hundred and twenty-five of the laws of nineteen hundred and three and the acts amendatory thereof or chapters seven hundred and seventy-six and seven hundred and seventy-seven of the laws of nineteen hundred and eleven.

§ 1446. Franchises and other grants not affected. This act shall not affect any grant or franchise or property or rights or property rights or other grant made by the Nicolls charter, the Dongan charter, the Cornbury charter, the Montgomerie charter, by the confirmatory act passed the fourteenth day of October, seventeen hundred and thirty-two, or by any other charter granted to or act in respect of the corporation known as the mayor, aldermen and commonalty of the city of New York, by the state of New York, or granted by the state to the city of Brooklyn or to any other municipal or public corporation heretofore united and consolidated to form the city or to the city of New York.

§ 1447. Repeal by implication. Nothing contained in this act shall be construed as repealing any statute of the state, not specifically repealed by this act, or ordinance of the city or rule or regulation of a department, board, body or office, not inconsistent with the provisions of this act, and the same shall remain in full force and effect when not inconsistent with the provisions of this act, to be construed and operated in harmony with its provisions. Notwithstanding the repeal by this act of any other act, any power now possessed by the mayor, comptroller or board of estimate and apportionment under the Greater New York charter as amended, in respect of franchises or contracts heretofore or hereafter granted or authorized pursuant to the rapid transit act shall continue in the mayor, comptroller and board of estimate, respectively.

§ 1448. Laws repealed. The following acts and parts of acts are hereby repealed:

1. Of the laws enumerated in the third schedule hereto annexed entitled "laws repealed," that portion thereof specified in the last column.

2. All acts or parts of acts, in so far as inconsistent with the provisions of this act.

But such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws purporting to amend specifically any of the laws hereby specifically repealed.

§ 1449. When to take effect. This act shall take effect immediately.

**First Schedule.****Title.**

- Section 346.** Police board; licenses for public exhibitions.
347. Idem; police board; licenses to emigrant boarding-houses; bond.
348. Idem; licenses to bookers of emigrant passengers.
349. Idem; licenses to runners; bonds.
760. Shavings; how to be stowed away.
762. Lights, precautions against fire and use of aisles in places of amusement.
763. Gunpowder and other explosives; sales thereof regulated.
765. Petroleum and coal oils, et cetera; sale thereof.
768. Fires and lights on vessels transporting petroleum.
769. Storage of certain chemicals regulated.
770. Idem; storage; storage of certain vegetable products.
773. Fines and penalties.
1207. As to rags, hides and skins.
1208. Unsound cotton.
1209. Unsound articles, or deposited contrary to orders.
1211. Penalties for disobedience.
1212. Offensive trades.
1213. Filling in lands.
1214. Yards and cellars.
1223. Separate receptacles for ashes and garbage.
1227. Driving and slaughtering cattle, sheep, swine, pigs or calves regulated.
1454. Municipal assembly to regulate driving, et cetera.
1455. Law of the road.
1456. Rubbish, nails, et cetera, not to be thrown in the streets.
1457. Processions and parades; regulations concerning.
1462. Willfully breaking street lamps, et cetera.
1463. Idem; detaining offender until name ascertained.
1464. Idem; preceding sections no bar to suit by person injured.
1465. Idem; informer relieved of penalty, et cetera.
1466. Definition of "street."
1472. Public exhibitions to be licensed.

## Title.

- Section 1473. Police department grants license; fee; penalty for neglect to obtain license.
1474. Idem; commutation of license fee.
1475. Idem; fees to be paid over to comptroller.
1476. Revocation of license.
1477. Penalty for violating provisions of this title.
1478. Police, et cetera, to arrest offenders.
1479. Corporation counsel may enjoin exhibitions without license.
1480. Preceding sections not applicable to certain performances.
1481. Exhibitions on Sunday prohibited.
1482. Minors under fourteen unaccompanied by adult not to be admitted to theaters at night.
1483. Prohibition of sale of spirituous liquors and employment of female waiters.
1484. Violation of preceding section annuls license.
1486. Police, et cetera, to enter places of amusement and arrest offenders.
1487. Doors and exits to be conspicuously numbered; diagrams to be printed on programs.

**Second Schedule.**

34. Licenses to auctioneers.
51. Licensing and regulating certain trades or business.
316. Idem; general powers over certain trades.
317. Idem; may examine pawnbrokers' books.
318. Idem; suppression of gaming and other houses.
342. Steam boilers; inspection of; not to be operated without certificate.
343. Idem; no person to use, or act as engineer for, without certificate.
344. Idem; record of inspection to be kept.
345. Idem; overpressure forbid; owner to report boiler.
399. Penalty for injury to sewers.
481. Certain acts misdemeanors.
482. Idem; continued.
- 529a. No person to operate moving picture apparatus and its connections without a license.

## Title.

- Section 545. Proceedings for removal of trucks, et cetera, from streets regulated.
749. Hose bridges on railroad tracks.
750. Fire hydrants not to be obstructed.
755. Idle persons, et cetera, may be removed from fires.
764. Fireworks and explosive compounds; manufacture and sale thereof.
766. Idem; continued.
772. Information to be furnished by holders of permits.
856. Occupation of waters by ships not entitled thereto.
857. Failure to remove when ordered; penalty.
866. Penalty for vessels wrongfully entering canal boat territory.
867. Powers of dock masters to assign and regulate stations for vessels; penalty for refusing to obey direction.
880. Certain substances not to be dumped in port of New York.
881. Scows to receive ashes, et cetera, from steam tugs and vessels.
1204. Removal of dead bodies.
1205. Removal of night soil and offal.
1210. Putrid cargoes may be destroyed.
1248. Affidavit may be required.
1249. Penalty for failing to report.
1250. Boarding and lodging-house-keepers may be required to report.
1313. Inspection twice a year; officers to have access.
1314. Houses hereafter erected to comply with additional requirements.
1315. Construction of lodging-houses and spaces prescribed for building the same.
1316. Dimensions and ventilation of rooms.
1317. Penalties for violations of provisions.
1318. Power of bureau of buildings and board of health to make other regulations relative to lodging-houses.
1488. Public dance hall; defined.
1489. Public dance hall dancing academy forbidden without a license.

## Title.

- Section 1490. Public dance hall; license of; requirements.  
 1491. No license without report after inspection.  
 1492. Public dance halls; sale of liquors therein.  
 1493. License; when forfeited or revoked.  
 1494. Inspectors and other officials.  
 1562. Waters and shores to be kept pure and clean.  
 1563. Illegal to assist in towing or sailing vessels laden  
 with garbage, et cetera.  
 1564. Penalties for violations of last two sections.

**Third Schedule.**

## LAWS REPEALED.

Laws of	Chapter	Section
1882.....	410.....	§ 1991
1888.....	10.....	All
1893.....	289.....	All
1894.....	534. ....	All
1897.....	378.....	All
1897.....	380.....	All
1897.....	382.....	All
1897.....	385.....	All
1897.....	426.....	All
1897.....	523.....	All
1897.....	528.....	All
1897.....	529.....	All
1897.....	531.....	All
1897.....	629.....	All
1897.....	630.....	All
1897.....	631.....	All
1897.....	635.....	All
1897.....	637.....	All
1897.....	642.....	All
1897.....	663.....	All
1897.....	667.....	All
1897.....	672.....	All
1897.....	696.....	All
1897.....	710.....	All
1897.....	719.....	All
1897.....	735.....	All
1898.....	91.....	All

Laws of	Chapter	Section
1898.....	380.....	All
1898.....	381.....	All
1898.....	389.....	All
1898.....	391.....	All
1898.....	432.....	All
1898.....	515.....	All
1898.....	546.....	All
1898.....	573.....	All
1898.....	602.....	All
1898.....	650.....	All
1898.....	652.....	All
1899.....	74.....	All
1899.....	126.....	All
1899.....	130.....	All
1899.....	161.....	All
1899.....	196.....	All
1899.....	212.....	All
1899.....	254.....	All
1899.....	261.....	All
1899.....	281.....	All
1899.....	313.....	All
1899.....	367.....	All
1899.....	379.....	All
1899.....	417.....	All
1899.....	433.....	All
1899.....	500.....	All
1899.....	564.....	All
1899.....	568.....	All
1899.....	612.....	All
1899.....	644.....	All
1899.....	674.....	All
1899.....	691.....	All
1899.....	698.....	All
1899.....	699.....	All
1899.....	706.....	All
1900.....	7.....	All
1900.....	82.....	All
1900.....	83.....	All
1900.....	155.....	All
1900.....	247.....	All
1900.....	283.....	All



Laws of	Chapter	Section
1900.....	284.....	All
1900.....	461.....	All
1900.....	463.....	All
1900.....	615.....	All
1900.....	620.....	All
1900.....	623.....	All
1900.....	629.....	All
1900.....	630.....	All
1900.....	632.....	All
1900.....	649.....	All
1900.....	663.....	All
1900.....	709.....	All
1900.....	713.....	All
1900.....	718.....	All
1900.....	744.....	All
1900.....	751.....	All
1900.....	757.....	All
1901.....	33.....	All
1901.....	67.....	All
1901.....	93.....	All
1901.....	182.....	All
1901.....	186.....	All
1901.....	412.....	All
1901.....	456.....	All
1901.....	466.....	All
1901.....	647.....	All
1901.....	713.....	All
1901.....	714.....	All
1901.....	715.....	All
1901.....	718.....	All
1901.....	720.....	All
1901.....	723.....	All
1901.....	724.....	All
1901.....	730.....	All
1901.....	733.....	All
1902.....	84.....	All
1902.....	192.....	All
1902.....	256.....	All
1902.....	435.....	All
1902.....	436.....	All

Laws of	Chapter	Section
1902.....	441.....	All
1902.....	453.....	All
1902.....	509.....	All
1902.....	530.....	All
1902.....	546.....	All
1902.....	550.....	All
1902.....	553.....	All
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1902.....	569.....	All
1902.....	583.....	All
1902.....	589.....	All
1902.....	590.....	All
1902.....	604.....	All
1902.....	609.....	All
1902.....	611.....	All
1902.....	612.....	All
1903.....	43.....	All
1903.....	60.....	All
1903.....	103.....	All
1903.....	159.....	All
1903.....	177.....	All
1903.....	210.....	All
1903.....	253.....	All
1903.....	258.....	All
1903.....	301.....	All
1903.....	304.....	All
1903.....	379.....	All
1903.....	388.....	All
1903.....	395.....	All
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1903.....	406.....	All
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1903.....	417.....	All
1903.....	418.....	All
1903.....	436.....	All
1903.....	437.....	All
1903.....	438.....	All
1903.....	439.....	All
1903.....	454.....	All

Laws of	Chapter	Section
1903.....	510.....	All
1903.....	511.....	All
1903.....	514.....	All
1903.....	536.....	All
1903.....	612.....	All
1903.....	624.....	All
1904.....	71.....	All
1904.....	90.....	All
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1904.....	274.....	All
1904.....	341.....	All
1904.....	343.....	All
1904.....	358.....	All
1904.....	362.....	All
1904.....	369.....	All
1904.....	370.....	All
1904.....	375.....	All
1904.....	396.....	All
1904.....	399.....	All
1904.....	409.....	All
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1904.....	457.....	All
1904.....	512.....	All
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1904.....	577.....	All
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1904.....	602.....	All
1904.....	618.....	All
1904.....	624.....	All
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1904.....	627.....	All
1904.....	628.....	All
1904.....	676.....	All
1904.....	683.....	All
1904.....	684.....	All

Laws of	Chapter	Section
1904.....	700.....	All
1904.....	701.....	All
1904.....	732.....	All
1904.....	736.....	All
1904.....	740.....	All
1904.....	741.....	All
1904.....	756.....	All
1904.....	757.....	All
1905.....	24.....	All
1905.....	70.....	All
1905.....	107.....	All
1905.....	180.....	All
1905.....	187.....	All
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1905.....	621.....	All
1905.....	629.....	All
1905.....	630.....	All
1905.....	632.....	All
1905.....	633.....	All
1905.....	637.....	All
1905.....	638.....	All

Laws of	Chapter	Section
1905.....	639.....	All
1905.....	648.....	All
1905.....	661.....	All
1905.....	725.....	All
1905.....	726.....	All
1905.....	735.....	All
1906.....	96.....	All
1906.....	152.....	All
1906.....	153.....	All
1906.....	190.....	All
1906.....	192.....	All
1906.....	207.....	All
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1906.....	360.....	All
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1906.....	611.....	All
1906.....	618.....	4
1906.....	635.....	All
1906.....	636.....	All
1906.....	638.....	All
1906.....	658.....	All
1906.....	659.....	All
1907.....	43.....	All
1907.....	134.....	All
1907.....	160.....	All
1907.....	167.....	All
1907.....	168.....	All
1907.....	269.....	All
1907.....	277.....	All
1907.....	278.....	All

Laws of	Chapter	Section
1907.....	302.....	All
1907.....	303.....	All
1907.....	365.....	All
1907.....	372.....	All
1907.....	373.....	All
1907.....	383.....	All
1907.....	431.....	All
1907.....	432.....	All
1907.....	435.....	All
1907.....	439.....	All
1907.....	445.....	All
1907.....	450.....	All
1907.....	469.....	All
1907.....	516.....	All
1907.....	547.....	All
1907.....	598.....	All
1907.....	600.....	All
1907.....	601.....	All
1907.....	602.....	All
1907.....	611.....	All
1907.....	637.....	All
1907.....	639.....	All
1907.....	642.....	All
1907.....	644.....	All
1907.....	675.....	All
1907.....	677.....	All
1907.....	678.....	All
1907.....	679.....	All
1907.....	680.....	All
1907.....	723.....	All
1907.....	748.....	All
1907.....	762.....	All
1907.....	763.....	All
1908.....	12.....	All
1908.....	64.....	All
1908.....	65.....	All
1908.....	83.....	All
1908.....	106.....	All
1908.....	134.....	All
1908.....	135.....	All

Laws of	Chapter	Section
1908.....	142.....	All
1908.....	147.....	All
1908.....	242.....	All
1908.....	354.....	All
1908.....	355.....	All
1908.....	356.....	All
1908.....	357.....	All
1908.....	376.....	All
1908.....	377.....	All
1908.....	380.....	All
1908.....	381.....	All
1908.....	382.....	All
1908.....	401.....	All
1908.....	402.....	All
1908.....	447.....	All
1908.....	490.....	All
1909.....	328.....	All
1909.....	331.....	All
1909.....	342.....	All
1909.....	348.....	All
1909.....	377.....	All
1909.....	381.....	All
1909.....	388.....	All
1909.....	393.....	All
1909.....	394.....	All
1909.....	395.....	All
1909.....	397.....	All
1909.....	398.....	All
1909.....	400.....	All
1909.....	505.....	All
1909.....	516.....	All
1909.....	526.....	All
1909.....	540.....	All
1909.....	559.....	All
1909.....	565.....	All
1909.....	566.....	All
1910.....	239.....	All
1910.....	245.....	All
1910.....	262.....	All
1910.....	267.....	All
1910.....	269.....	All

Laws of	Chapter	Section
1910.....	330.....	All
1910.....	336.....	All
1910.....	456.....	All
1910.....	543.....	All
1910.....	544.....	All
1910.....	546.....	All
1910.....	547.....	All
1910.....	548.....	All
1910.....	550.....	All
1910.....	551.....	All
1910.....	553.....	All
1910.....	554.....	All
1910.....	654.....	All
1910.....	679.....	All
1910.....	681.....	All
1910.....	683.....	All
1910.....	702.....	All
1911.....	65.....	All
1911.....	69.....	All
1911.....	224.....	All
1911.....	301.....	All
1911.....	304.....	All
1911.....	392.....	All
1911.....	455.....	All
1911.....	456.....	All
1911.....	563.....	All
1911.....	607.....	All
1911.....	644.....	All
1911.....	661.....	All
1911.....	669.....	All
1911.....	673.....	All
1911.....	675.....	All
1911.....	678.....	All
1911.....	679.....	All
1911.....	680.....	All
1911.....	682.....	All
1911.....	694.....	All
1911.....	712.....	All
1911.....	813.....	All
1911.....	834.....	All
1911.....	839.....	All



(No. 33½.)

AN ACT to amend the election law, in relation to nominations and primaries.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The schedule of articles of chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," is hereby amended to read as follows:

Article 1. Short title; *application; definitions* (§§ 1-3).

2. [Definitions; general provisions as to primaries] *Enrollment of voters* (§§ [2]4-[7]24).

3. [Enrollments and primaries in cities and in villages having five thousand inhabitants or more] *Party organization* (§§ [20]35-[74]40).

4. [Enrollments and primaries in towns] *Designation of candidates for party nominations or for election to party positions* (§§ [90]45-[104]58).

4-a. *Conduct of primary elections; canvass of returns* (§§ 70-94).

4-b. *Conventions* (§§ 110-114).

5. *Nominations* (§§ 120-137).

6. *Registration of voters* (§§ 150-184).

7. *Boards of elections in cities of the first class containing one or more counties* (§§ 109-201).

8. *Commissioner of elections in the county of Erie* (§§ 210-221).

9. *Commissioner of elections in the county of Monroe* (§§ 230-242).

10. *Commissioner of elections in the county of Onondaga* (§§ 250-260).

11. *Commissioner of elections in the county of Westchester* (§§ 270-281).

12. *Times, places, notices, officers and expenses of elections* (§§ 290-320).

13. *Ballots and stationery* (§§ 330-345).

- Article 14.** Conduct of elections and canvass of votes (§§ 350–381).
15. Voting machines (§§ 390–421).
16. Boards of canvassers (§§ 430–444).
17. Representatives in congress and presidential electors (§§ 450–457).
18. Metropolitan elections district (§§ 470–[488]489).
19. Soldiers' and sailors' elections (§§ 500–522).
20. Corrupt practices (§§ 540–[561]562).
21. Laws repealed; when to take effect (§§ 570, 571).

§ 2. The schedule of sections to article one of such chapter is hereby amended to read as follows:

## ARTICLE 1.

### SHORT TITLE; APPLICATION; DEFINITIONS.

**Section 1.** Short title.

2. *Application.*

3. *Definitions.*

§ 3. Such chapter is hereby amended by inserting in article one thereof a new section, to be known as section two, to read as follows:

§ 2. *Application.* Except as otherwise herein provided, articles two, three, four, four-a and four-b of this chapter shall be controlling:

1. *On the method of enrolling the voters of a party.*
2. *On the organization and conduct of party committees.*
3. *On the method of electing members of party committees and delegates and alternates to party conventions.*
4. *On the organization and conduct of party conventions.*
5. *On the nomination by parties of all candidates for offices authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, except town, village and school district officers, and electors of the president and vice-president of the United States.*

§ 3-a. Section two of such chapter, as amended by chapter six hundred and forty-nine of the laws of nineteen hundred and

eleven, is hereby renumbered section three, inserted as a part of article one, and amended to read as follows:

**[2]** 3. Definitions. The terms used in this chapter shall have the significance herein defined unless other meaning is clearly apparent in language or context;

1. The term "general election" means the election held on the Tuesday next succeeding the first Monday in November.

2. The term "official primary" or "official primary election" means a primary election held by a party for the purpose of nominating party candidates for office, or for the election of any member of a party committee constituted as provided in section **[forty-five]** *thirty-five* of this chapter, or for the election of delegates and alternates to a party convention. An "unofficial primary" or an "unofficial primary election" means any other primary or primary election held by a party *or independent body*.

3. The term "primary day" means the day upon which an official primary election is held, as in this chapter provided.

4. The term "fall primary" means the official primary election held on the seventh Tuesday before the general election.

5. The term "spring primary" means the official primary election held on the last Tuesday in March in years when a president of the United States is to be elected.

6. The term "unit of representation" means any election district, town, ward of a city, assembly district, or any other political subdivision of the state, respectively, which is the unit from which members of any political committee or delegates to a party convention shall be elected as herein provided.

7. The term "custodian of primary records" means the officer or board whose duty it is by the provisions of this chapter to provide official ballots for general elections.

8. The term "party" means any political organization which at the last preceding election of a governor polled at least ten thousand votes for its candidate for such office. *No organization or association of citizens for the election of judicial or city officers and in cities of over one million inhabitants no organization or association of citizens for the election of borough or county officers shall be deemed a party within the meaning of this chapter, and membership in any such organization or association shall*

*not prevent a voter from enrolling with, and acting as a member of a political party.*

9. The term "nomination" means the selection in accordance with the provisions of this chapter of a candidate for office authorized to be filled at a general election or at a special election held to fill a vacancy in such office.

10. *The term "designation" means any method in accordance with the provisions of this chapter by which candidates for party nominations, or for election as party committeemen or delegates, may be named in order that they may be placed upon the official ballot for any official primary election.*

11. *The term "official primary ballot" means the ballot prepared, printed and supplied for use at an official primary election in accordance with the provisions of this chapter.*

[10] 12. The term "party position" means membership in a party committee or the position of delegate or alternate to a party convention.

[11] 13. The term "convention" means an assemblage of delegates elected in accordance with the provisions of this chapter representing a political party or independent body, duly convened for the purpose of nominating candidates for public office, electing delegates to other conventions, electing officers for party or independent organizations, or for the transaction of any other business relating to the affairs or conduct of the party or independent body.

[12] 14. The term "committee" means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political subdivision of the state.

[13] 15. The term "independent body" means any organization or association of citizens who, by petition, nominate candidates for office to be voted for at a general, special or village election, or town meeting, and which, if such independent body nominated candidates to be voted for at the preceding general election of a governor, polled less than ten thousand votes for governor.

[14] 16. The term "party nomination" means the selection by a party or political party of a candidate for an office au-

thorized to be filled at a general election, or at a special election held to fill a vacancy in such office, or at a town meeting.

**[15]** 17. The term "independent nomination" means the selection of a candidate by an independent body for an office authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, or at a town meeting.

**[16]** 18. The term "party candidate" or "party nominee" means a person who is selected by a party or political party to be its candidate for an office authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, or at a town meeting.

**[17]** 19. The term "independent candidate" or "independent nominee" means a person who is selected by an independent body to be its candidate for an office authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, or at a town meeting.

§ 4. The schedule of sections of article two or such chapter is hereby amended to read as follows:

## ARTICLE 2.

### **[DEFINITIONS; GENERAL PROVISIONS AS TO PRIMARIES.] ENROLLMENT OF VOTERS.**

#### Section **[2. Definitions.]**

##### **[3. Notice of primary.]**

4. **[Organization and conduct of primaries.]** *Delivery of enrollment books.*

5. **[Qualifications of voters at primaries.]** *Enrollment books.*

**[6. Duties of chairman of primary.]**

6. **[7. Watchers and canvass of votes at primaries.]** *Voting booths and enrollment boxes.*

7. *Enrollment blanks and envelopes.*

8. *Delivery of enrollment blanks to voters who register personally.*

9. *Delivery of enrollment blanks to voters where registration is not personal.*

10. *Enrollment by voters.*

**Section 11. Examination, sealing and custody of enrollment boxes.**

- 12 Certification and secrecy of enrollment where registration is personal.*
- 13. Certification and secrecy of enrollment where registration is not personal.*
- 14. Opening of enrollment box and completion of enrollment.*
- 15 Enrollment in the year nineteen hundred and eleven.*
- 16. Duplicate enrollment books.*
- 17. Use of duplicate enrollment books at unofficial primaries.*
- 18. Use of original enrollment books at official primaries.*
- 19. Right to enroll and vote at primaries.*
- 20. New enrollment books for changed districts.*
- 21. Enrollment books to be public records; transcripts of enrollment.*
- 22. Publication of enrollment.*
- 23. Judicial review of enrollment.*
- 24. Correction of enrollment with respect to persons not in sympathy with party.*

§ 5. Section twenty-two of such chapter is hereby renumbered section four, inserted as a part of article two thereof and amended to read as follows:

§ [22] 4. **[Enrollment]** *Delivery of enrollment books.* The custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all voters of the election district may be inscribed therein alphabetically. Said books shall be delivered by the custodian of primary records to the election inspectors of the respective election districts immediately before the first day of registration in each year *and also in districts where personal registration is not required, to the town clerk at least twenty-four hours before the first day of registration, who shall deliver such enrollment books to the*

*inspectors of election of the respective election districts in his town one-half hour before the opening of the polls.*

§ 6. Section twenty-three of such chapter is hereby renumbered section five, inserted as a part of article two thereof and amended to read as follows:

§ [23] 5. Enrollment books [except in cities of one million inhabitants and of second class. In cities of the first class containing a population of over three hundred thousand and less than five hundred thousand and cities of the third class to which this chapter is made applicable pursuant to section seventy-three such]. *The* enrollment books shall be so arranged and printed that there shall be [fourteen] *twelve* columns on each page; the first for the enrollment number of the voters; the second for the surnames of the voters; the third for the christian names of the voters; the fourth for their residence addresses; the fifth for the word "yes"; the sixth for the name of the party, if any, with which the voter shall enroll; the seventh [for an entry to show a special enrollment; the eighth for the record of transfer or removal from one election district to another; the ninth] for the word "voted" in case the voter votes at the [first official] *spring* primary [election of the year]; the [tenth] *eighth* for a record as to challenges in case he is challenged thereat; the [eleventh] *ninth* and [twelfth] *tenth* columns for similar entries in case he votes at the [second official] *fall* primary [election]; and the [thirteenth] *eleventh* and [fourteenth] *twelfth* columns for similar entries in case there be a third official primary election or an unofficial primary election.

§ 7. Section twenty-five of such chapter is hereby renumbered section six, inserted as a part of article two thereof and amended to read as follows:

§ [25] 6. Voting booths and enrollment boxes. The custodian of primary records shall cause at least two voting booths of the same kind and description as voting booths used at general elections, to be erected in each place of registration before the first day of registration in each year, and such booths shall be and remain in said places of registration during the registration at the [four] regular meetings for registration during that year; and it shall be the duty of the

custodian of primary records to furnish in each voting booth so erected the same articles as are required by law to be placed therein for a general election, which articles shall remain therein during such registration. He shall also provide in like manner one enrollment box in each place of registration of sufficient capacity to hold all the enrollment blanks and envelopes which are to be furnished for such place of registration, which shall be similar to the ballot boxes prescribed by law to be used at a general election. *He shall also in like manner provide at each polling place on general election day, in election districts in which personal registration is not required, two such voting booths, for the enrollment of voters, the needed articles therefor, and an enrollment box, as above provided.*

§ 8. Section twenty-six of such chapter is hereby renumbered section seven, inserted in article two as a part thereof and amended to read as follows:

§ [26] 7. Enrollment blanks and envelopes. There shall also be prepared and distributed by the custodian of primary records in the manner and at public expense as provided in this chapter for the furnishing of official ballots, such a number of enrollment blanks and envelopes for each election district [to the primary elections of which this article is applicable], as will exceed by two hundred the total number of voters registered in such district [at the last preceding general election]. The enrollment blanks shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks to be filled in in type as far as possible:

" Primary enrollment for the year ..... City (or village or town) of. .... ; county of. .... ;  
..... assembly district (or ward or town) ; .....  
election district; enrollment number .....

Name of voter .....

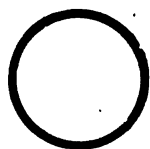
" I, ....., who have placed a mark underneath the party emblem hereunder of my choice, do solemnly declare that I have this day registered as a voter for the next ensuing election, (or, if the voter was duly registered otherwise than personally, that "I have this day voted in the above election district") and that I am a qualified voter of the election



district in which I have so registered (*or voted*), and that my residence address is as stated by me at the time I so registered (*or, if registration was not personal, a statement of the voter's present address*); that I am in general sympathy with the principles of the party which I have designated by my mark hereunder; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices, and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last [year] *January*. The word 'party' as used herein means a political organization which at the last preceding election of a governor, polled at least ten thousand votes for governor.

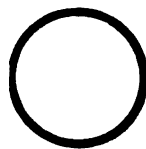
.....Party.

(Insert emblem.)



.....Party.

(Insert emblem.)



"Make a cross X mark, with a pencil having black lead, in the circle under the emblem of the party with which you wish to enroll, for the purpose of participating in its primary elections during the next year."

The circles underneath the emblems shall be one inch in diameter, and in them nothing shall be printed. The party emblems shall be the same as those which were on the ballots for each party respectively at the last preceding general election, and such emblems shall be so arranged on each blank that the emblem of the majority party at the last preceding general election of a governor shall be first, and the other emblems shall follow in order in accordance with the vote cast for such office at such election; over each emblem shall be printed, in type clearly legible, the name of the party represented by such emblem. The enrollment blanks shall have thereon only the emblems of those parties to which this article is applicable and shall be distributed inclosed within the enrollment envelopes having corresponding enrollment

numbers. The enrollment envelopes shall be of such size as to permit inclosure therein, without folding, of the enrollment blank, and of such weight and texture of paper as to make it impossible to read or decipher the printed matter on the blank when the same is sealed on the inside thereof. Nothing shall be printed or written upon the enrollment envelopes, except the following words, or the substance thereof, blanks to be filled in in type as far as possible:

"Primary enrollment for year..... City (or village or town) of .....; county of .....; ..... assembly district (or ward or town); ..... election district."

§ 9. Section twenty-seven of such chapter is hereby renumbered section eight, inserted as a part of article two thereof and amended to read as follows:

§ [27] 8. Delivery of enrollment blanks to voters *who register personally*. When, in any [city or village to which this article is applicable,] *political subdivision of the state*, a voter shall, at any of the [four] regular meetings for registration in any year, present himself *personally, for registration*, to the board of election inspectors in any election district, his name and residence address shall be entered at the proper place in the two original enrollment books for that district. After he shall have been registered as a qualified voter of that election district for the next ensuing general election, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the place of registration, enter his [registration] *enrollment* number, beginning with number one for the first voter [registered] *enrolled* on the first day, and so on in numerical order, opposite his name, in the first column of the registration books and the enrollment books, and shall write the name of the voter on the blank having the *enrollment* number which shall be opposite his name on the registration and enrollment books, and shall fill in the other blank spaces on the enrollment envelope and blank, and shall deliver to such voter the enrollment envelope and the blank having his name on it. No voter shall be given more than two sets of enrollment blanks and envelopes in any event, nor more than one set unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him,

the member of the board of election inspectors in charge of the enrollment books shall draw a line through such voter's enrollment number in the first column in said *enrollment and registration* books, [and of the registration books,] and shall insert in such space in said columns the number which shall be upon the new set to be given him, which number shall always be the lowest number of the enrollment blanks and envelopes then unused in such [booth] election district. *The procedure specified in this section shall also apply to an election district comprising territory partly within and partly outside of a village in which personal registration is required.*

§ 10. Such chapter is hereby amended by inserting therein, as a part of article two thereof, a new section, to be section nine thereof, to read as follows:

§ 9. *Delivery of enrollment blanks to voters where registration is not personal. When, in any town or village in which personal registration by certain of the voters is not required, or in an election district a part of which comprises territory in which such personal registration is not required, a voter who was not registered personally shall present himself to the board of election inspectors in any election district for the purpose of receiving an official ballot to be voted thereat, his name and residence shall be entered at the proper place in the original enrollment books for that district. After he shall have voted, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the polling place, write his name on the enrollment blank and envelope having the lowest number of the blanks then unused in such election district, shall fill in the other blank spaces on such enrollment blank and envelope, deliver to him the enrollment envelope and the blank having his name on it, and enter opposite his name in the first column of the registration and enrollment books the number on the blank delivered to him. No voter shall be given more than two sets of blanks and envelopes in any event, nor more than one set, unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him the member of the board of election inspectors in charge of the enrollment books shall draw a line through such voter's enrollment number in the first column in said registration and enroll-*

ment books, and shall insert in such place in such column the number which shall be upon the new set to be given him, which number shall also be the lowest number on the enrollment blanks then unused in such election district. Enrollment blanks shall be numbered consecutively, beginning with the one succeeding the last number used on the last preceding day of registration.

§ 11. Section twenty-eight of such chapter is hereby renumbered section ten, inserted as a part of article two thereof and amended to read as follows:

§ [28] 10. Enrollment by voters. Such voter desiring to enroll shall then enter a voting booth in said place of registration or polling place, and, after having closed the door thereof, may make a cross X mark with a pencil having black lead in the circle underneath the emblem of the party of his selection and thereupon inclose said enrollment blank in said envelope and seal the same, and, before leaving the place of registration or polling place, shall forthwith deposit the same in the enrollment box in said place of registration or polling place in the presence of the inspectors of election, without in any way indicating the party with which he has or has not enrolled, and the inspectors shall thereupon enter in the enrollment books in the fifth column thereof the word "yes." If a voter declines to enroll, he may return the blank and envelope to the inspector in charge of the enrollment box, and such inspector shall seal said envelope with the blank therein, indorse the name of such voter thereon and deposit the same in the enrollment box; and a like entry shall be made opposite his name in the fifth column of the enrollment books. The entries in the enrollment and registration books required by this and the two preceding sections shall be made by a member of the board designated by the chairman.

One mark crossing [another] any other mark at any angle within the circle shall be deemed a cross mark within the meaning of this article.

§ 12. Section twenty-nine of such chapter is hereby renumbered section eleven, inserted as a part of article two thereof and amended to read as follows:

§ [29] 11. Examination, sealing and custody of enrollment boxes. Before the entry of any enrollment number or the delivery of an enrollment blank and envelope to any voter, [shall be regis-

tored] in any year, the said enrollment box shall be examined by the board of election inspectors and when empty shall be locked and sealed by them in such a manner that should it be opened such seal would be broken; and the same shall remain so locked and sealed until the same shall be opened by the custodian of primary records [after the next ensuing general election] as hereinafter provided. Said boxes shall be in the charge and keeping of the custodian of primary records at all times except during [the] hours of [registration as prescribed by law] *enrollment*.

§ 13. Section thirty of such chapter is hereby renumbered section twelve, inserted as a part of article two thereof and amended to read as follows:

§ [30] 12. Certification and secrecy of enrollment *where registration is personal*. At the close of the last meeting for registration in each year the board of election inspectors shall severally subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books. Such declarations shall be to the effect that the persons shown by such enrollment books are the only persons who registered *personally* as voters in that district on any of said days of registration and shall set forth the number of the last enrollment blank used on such last day of registration. Immediately upon the close of each day of registration, and before leaving the meeting place, the board of election inspectors shall publicly inclose the said enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district. Such envelope shall remain in the custody of the chairman of the board until the meeting on the next day of registration, when it shall be publicly opened. The envelope sealed at the close of the last day of registration shall, within twenty-four hours thereafter, be delivered to the custodian of primary records. Such envelope shall remain sealed until the next Tuesday following the next ensuing day of general election, *except that in any election district in which personal registration as to certain of the voters is not required or comprising territory in which such personal registration is not required such envelope shall be returned to the board of inspectors before the opening of the polls on the day of general*

*election, to be by them opened and used and again delivered to the custodian of primary records as prescribed in section thirteen. No member of the board of election inspectors shall make, or allow to be made, a copy of, or a transcript or statement from, the enrollment books. No person shall, on any of such days of registration or in the interval between any such day and the next ensuing day of general election, reveal or disclose the names or number of the enrolled voters, or make, publish or circulate a list of such names, or of any thereof, or do or permit any act by which the name of any voter who may or may not have enrolled, or the number of voters enrolled or not enrolled, shall be disclosed.*

§ 14. Such chapter is hereby amended by inserting therein a new section, to be section thirteen thereof, to read as follows:

§ 13. *Certification and secrecy of enrollment where registration is not personal. At the close of the day of general election or on the following day in each year the board of election inspectors, where personal registration as to certain voters is not required, shall severally subscribe and verify duplicate declarations, one of which shall be printed on and attached to each of the original enrollment books. Such declarations shall be to the effect that the persons shown by such enrollment books whose enrollment number is higher than the last number used on the last preceding day of registration are the only persons who voted in that district on such general election who were not registered personally. They shall inclose such enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district, and shall within forty-eight hours after the close of such general election deliver the same to the custodian of primary records. Such envelope shall remain sealed until the following Tuesday. No member of the board of election inspectors shall make, or allow to be made, a copy of or a transcript or statement from the enrollment books.*

§ 15. Section thirty-one of such chapter is hereby renumbered section fourteen, inserted as a part of article two thereof and amended to read as follows:

§ [31] 14. Opening of enrollment box and completion of enrollment. It shall be the duty of the board of [primary] inspectors, or one of them, [after] *at the time of the final [meeting for registration in each year, and at the same time that he delivers the registration]* *delivery of enrollment* books, to deliver the enrollment box to the custodian of primary records. All enrollment envelopes contained therein shall remain in such box, and the said box shall not be opened nor shall any of the envelopes be opened or removed therefrom until the Tuesday following the [next succeeding] day of general election *in that year*. Such box shall then be opened by the custodian of primary records, and the envelopes contained therein shall be removed therefrom and opened by said custodian, and the name of the party designated by each voter under such declaration shall be by said custodian entered against the name of such voter in the sixth column of the enrollment books for the election district in which such voter resides. Such enrollment shall be completed before the succeeding fifteenth day of February in each year. If cross marks are found in more than one of the circles, or if no cross marks are found in any of the circles, on any enrollment blank, the voter who used the enrollment blank thus deficient shall not be deemed to be enrolled, and words indicating the reason why such enrollment is not transcribed shall be entered in said sixth column of the enrollment books against the name of such voter. When all of the enrollments shall be transcribed from the blanks to the enrollment books, the custodian of primary records shall subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books, which declaration shall be to the effect that he has correctly and properly transcribed the enrollment indicated on the blank of each voter to the enrollment books, as herein provided.

§ 16. Such chapter is hereby amended by inserting therein a new section, to be section fifteen thereof, to read as follows:

§ 15. *Enrollment in the year nineteen hundred and eleven. In each election district of the state where no enrollment of the members of political parties was required to be made in accordance with the provisions of the election law in the year nineteen hundred and ten, the boards of primary inspectors shall meet in their*

*election districts respectively from twelve o'clock noon until nine o'clock post meridian on the third day of August, nineteen hundred and eleven, and the seventh day of August, nineteen hundred and eleven, for the purpose of making such enrollment. The members of said boards shall receive the same compensation as for a day of registration and such compensation shall be paid to them by the same officials and in the same manner as for a day of registration. Such boards of primary inspectors at such meetings shall make an enrollment of party voters in the manner herein prescribed. In the election districts where there has been no party enrollment they shall place upon the enrollment books the names of all voters who shall appear in person before the said board and fill out and file with it an enrollment blank which shall be printed in substantially the same form as the blanks prescribed in section seven of this act. At the conclusion of such enrollment on the seventh day of August the said boards of primary inspectors shall cause to be mailed to their several post-office addresses enrollment blanks to all voters whose names appear upon the registration lists but not upon the enrollment books, with the following instructions printed across the top thereof: "Fill out and return on or before the eleventh day of August, nineteen hundred and eleven, to*

*chairman board of primary inspectors, town of*  
*or election district,* *(here*

*insert the number of the assembly district or ward or the name of the town or village if any) at ..... (here insert the post-office address, with street and number, if any, of chairman of the board of primary inspectors)." The names of enrolled voters contained in such blanks as shall be mailed on or before the eleventh day of August, nineteen hundred and eleven, and when received by the chairman of the board of primary inspectors, shall be added to the enrollment books. The names of party voters thus enrolled shall be arranged alphabetically upon the enrollment books and such enrollment books on and after the twelfth day of August, nineteen hundred and eleven, shall become the enrollment books for the primary elections to be held in the year nineteen hundred and eleven and shall be subject to the provisions of this chapter applying to enrollment books of party voters. The enrollment books and blanks for the enrollment of*



*party voters required by this chapter to be printed by the custodian of primary records, shall be furnished in the year nineteen hundred and eleven on or before the first day of August of said year.*

§ 17. Section thirty-six of such chapter is hereby renumbered section sixteen, inserted as a part of article two thereof and amended to read as follows:

§ [36] 16. Duplicate enrollment books. The custodian of primary records shall annually provide a true copy [of the enrollment books], duly certified, for each party [to which this article shall then be applicable, provided that in cities containing a population of one million or over and in cities containing a population of not less than fifty thousand and not more than three hundred thousand such copies shall be only] of so much of the said enrollment books as will give the names, addresses and political affiliation of each voter], and the certificate attached to each said copy shall be qualified to meet the requirements of this proviso]. The said custodian shall, in the month of February of each year, deliver one such certified copy to the chairman of the proper general committee of each such party. Such certified copies shall conform in all respects to the form of the original enrollment books, or to the portion transcribed, as the case may be. [ and all entries in such original enrollment books, completed to February fifteenth, when such books are prepared for election districts outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, a city containing a population of one million or over, shall be transferred thereto. The custodian of primary records shall, whenever requested so to do by the chairman of the proper general committee of any party to which this article is applicable and upon the delivery to him of that party's certified copy of the enrollment books for any election district, of a city or village other than a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over make such additions thereto and changes therein as may be necessary to cause the same to conform to the original enrollment books of that election district, completed to the fifteenth day of the month during

which such request is made, and shall, as promptly as possible, return the same to such chairman or his duly authorized representative, accompanied by a supplemental certificate showing that each such copy is a correct copy of the original as of such date.] The custodian of primary records [within a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over] shall certify to such chairman that each such copy is a correct transcript [of] from the original enrollment book, made during the [four] days of registration of voters for or at the preceding general election.

§ 18. Section thirty-seven of such chapter is hereby renumbered section seventeen, inserted as a part of article two thereof and amended to read as follows:

§ [37] 17. Use of duplicate enrollment books at unofficial primaries. At all unofficial primary elections of a party, the certified copy of the enrollment books[, completed, in the case of election districts outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over, to the first day of the month preceding the month in which the primary election is held.] shall be used, and no voter shall be allowed to take part in such primary election as a resident of an election district, unless his name is upon the certified copy of the enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate.

§ 19. Section thirty-eight of such chapter is hereby renumbered section eighteen and inserted unchanged as a part of article two thereof, to read as follows:

§ [38] 18. Use of original enrollment books at official primaries. The original enrollment books shall be used at all official primary elections, and shall be delivered by the custodian of primary records to the proper boards of election inspectors immediately before the opening of the polls on each official primary day, and shall be returned to such custodian forthwith, after the completion of the canvass of the votes. Such enrollment books shall go into effect on the first day of January following the days of registration on which they are begun, and shall, with any addi-

tions or changes made as herein provided, remain in force until the first day of the following January, when they shall be superseded by the new enrollment books, as herein provided.

§ 20. Section thirty-nine of such chapter is hereby renumbered section nineteen, inserted as a part of article two thereof and amended to read as follows:

§ [39] 19. Right to enroll and vote at primaries. No voter who has once enrolled in a political party shall be permitted to enroll in another political party before the first *day* of the next [four days of] registration. [Except as otherwise expressly provided in this article,] Only voters enrolled as [herein] provided *in this article* shall be entitled to participate in the *official* primary elections of their respective parties. [No voter who has registered in the preceding year shall be allowed to enroll in any election district other than that in which he was so registered, unless the custodian of primary records shall find that he was so registered in such other election district.] No voter shall take part in any primary election of any party other than the party in which he shall at the time be enrolled.

§ 21. Section forty of such chapter is hereby renumbered section twenty, inserted unchanged as a part of article two thereof. to read as follows:

§ [40] 20. New enrollment books for changed districts. In case, in the interval between the days of registration and an official primary day in the succeeding year, a new election district shall be created, or the boundaries of an election district, or the number of any ward or assembly district, shall be changed, the custodian of primary records shall, at least thirty days prior to such official primary day, prepare two new enrollment books for such district, or properly renumber the enrollment books for such ward or assembly district, which enrollment book shall be in the same form and exhibit the same facts as the enrollment books then in force in the territory comprised within such new or changed district, or renumbered ward or assembly district, but shall contain only the names of all the voters, who as shown by the enrollment books then in force in such territory are the enrolled voters of the respective political parties resident within such new or changed election district, or renumbered ward or assembly district. And in that event such new

enrollment books shall supersede the enrollment books then in force in such territory, and the custodian of primary records shall be charged with the same duties concerning the same and any duplicate sets thereof or transcripts therefrom as are herein provided for with respect to the enrollment books begun on the days of registration.

§ 22. Section forty-one of such chapter is hereby renumbered section twenty-one, inserted as a part of article two thereof and amended to read as follows:

§ **[41]** 21. Enrollment books to be public records; transcripts of enrollment. The enrollment books herein provided for and any declarations filed on enrollment shall be public records, and shall be open to inspection and copying at any time by any person, except for the period during which they are required to remain sealed as herein provided. It shall be the duty of the custodian of primary records to certify to the correctness of any transcript of such enrollment books, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript. Wherever the custodian of primary records is a salaried officer, the fees received by him for certifying such transcripts shall be paid into the public treasury. Such a certified transcript, containing the name and showing the enrollment of any voter, shall be sufficient evidence of such enrollment. The custodian of primary records shall give to any voter enrolled or transferred as in this article provided, a certificate of enrollment or of transfer, which shall specify the name of the party with which he is enrolled, the date of enrollment or transfer, and the election district in which such voter is enrolled. **[The]** Declarations and enrollment blanks filed by voters **[at the time of registration or in the special enrollment]** shall be public records and shall be kept on file until one year thereafter. No person shall be required to enroll, nor shall his failure to do so affect his right to register for the purpose of voting at any election.

§ 23. Section forty-two of such chapter is hereby renumbered section twenty-two, inserted as a part of article two thereof and amended to read as follows:

§ **[42]** 22. Publication of enrollment. **[In cities of one million inhabitants. In a city containing a population of one million or**

over, the] *The public officer or board at the time charged with the duty of publishing the registration lists of voters in [such] a city or county shall, between the fifteenth day of December and the [first] fifteenth day of [January] February, cause to be published in like manner and at public expense a transcript of the enrollment books of each election district in such city or county, omitting all entries except the names, the residence addresses, and the party, if any, recorded opposite the respective names. The custodian of primary records shall provide such transcript for publication.*

§ 24. Section forty-three of such chapter is hereby renumbered section twenty-three, inserted as a part of article two thereof and amended to read as follows:

§ [43] 23. Judicial review of enrollment [in cities of one million inhabitants. This section shall apply only to cities containing a population of one million or over]. If any statement in the declaration of any person, on the evidence of which his name was enrolled in the original enrollment books for any election district by the custodian of primary records, or if any entry opposite the name of any person in such enrollment books is false, or if any person enrolled in such enrollment books has died, or has removed from or no longer resides in such election district, any voter of the assembly district in which such election district is located (provided such voter is himself duly enrolled with the same political party with which the person, as to whom the application is made, was enrolled) may present proof thereof by affidavit to the supreme court, or to any justice thereof, in the judicial district, or to a county judge of the county, in which such election district is located. And thereupon such court, justice or judge shall make an order requiring the person against or as to whom the proceeding is instituted, unless he is shown to have died, as hereinafter provided, to show cause before such court, justice or judge, at time and place specified in such order, why his name should not be stricken from such enrollment book. Such order shall be returnable on a day at least ten days before a primary election, and a copy thereof shall be served on the person against whom the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof,

either personally or by depositing the same in the post-office of the city in which such election district is located, in a postpaid wrapper or envelope addressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment books for such election district. If the person as to whose name the application is made is claimed to be dead, the order to show cause hereinabove provided for shall be directed to the custodian of primary records, and service thereof need only be made upon such custodian of primary records, such service to be made in the manner heretofore in this section specified; but an order requiring the custodian of primary records to show cause why the name of a person claimed to be dead should not be stricken from the enrollment books shall not be made unless the affidavit presented to the court, justice or judge by the voter instituting the proceeding shall state that such voter has personal knowledge of the death of the person with respect to whose name the application is made and unless such affidavit is substantiated either by a certificate of the health department or by other competent evidence of such death. The custodian of primary records shall produce before the court, justice or judge, the original enrollment declaration subscribed by the person against or as to whom the proceeding is instituted. The court, justice or judge shall hear the persons interested, and if it appears by sufficient evidence that any statement in the declaration of the person against whom the proceeding is instituted, on the evidence of which he was enrolled by the custodian of primary records, or any statement opposite his name in the original enrollment books, is false, or that such person is dead or has removed from or no longer resides in the election district for which he is enrolled, shall order the name of such person stricken from the enrollment books, except as hereinafter provided. If at such hearing the person against whom the proceeding is instituted shall produce evidence that the custodian of primary records has incorrectly copied into the enrollment books the data contained in the declaration of such person, and that if correctly copied such person would be entitled to be enrolled in such election district, such order, instead of requiring his name to be stricken from the enrollment books,

shall require the correction of the enrollment books in accordance with such evidence. In either case the order shall require the custodian of primary records to strike such name from the enrollment books, or to otherwise correct such enrollment books in accordance with such order. Upon the correction of such enrollment books in accordance with such order, the custodian of primary records shall certify such correction to the chairman of the general committee of each party to whom a duplicate set of enrollment books has been delivered in pursuance of section [thirty-six] sixteen of this [article] chapter.

§ 25. Section forty-four of such chapter is hereby renumbered section twenty-four, inserted as a part of article two thereof and amended to read as follows:

§ [44] 24. Correction of enrollment [in cities of one million inhabitants,] with respect to persons not in sympathy with party. [This section shall apply only to cities containing a population of one million or over.] If any person is not in sympathy with the principles of the political party with which such person is enrolled, any voter of the assembly district in which such election district is located (provided such voter is himself duly enrolled with the same political party with which the person as to whom the application is made was enrolled) may present proof thereof by affidavit to the chairman of the county general committee of the political party with which the voter enrolled, and the chairman of such county general committee shall issue a notice requiring the person against or as to whom the proceeding is instituted to show cause before such chairman of the county general committee, or a subcommittee appointed by such chairman, at a time and place specified in such notice why his name should not be stricken from such enrollment books. Such notice shall be returnable on a day at least fifteen days before a primary election, and a copy of the affidavit shall be served on the person against whom the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof, either personally or by depositing the same in the post-office of the city in which such election district is located, in a postpaid wrapper or envelope addressed to the custodian of primary records at his office, and to such person by his name at his present

address, if known, and otherwise at the address which appears in the enrollment books for such election district. The chairman of such committee shall in his discretion personally hear the persons interested in the proceeding or appoint a subcommittee to take testimony, and in such event the action of the subcommittee shall not be final unless approved of by the chairman of such county general committee, and if it appears by sufficient evidence that such person is not in sympathy with the principles of the political party with which such person enrolled, the chairman of the county general committee shall cause to be filed a certificate with the board of elections or with the custodian of primary records setting forth reasons why the name of such person shall be stricken from the enrollment books, together with a record of the proceedings had in the matter. It shall be the duty of the board of elections or the custodian of primary records to make application to the supreme court or to any justice thereof in the judicial district, or to a county judge of the county, in which such election district is located, for an order requiring the person against or as to whom the proceeding is instituted to show cause before such court, justice or judge, at a time and place specified in such order, why the decision of the chairman of such county general committee should not be confirmed. Such order shall be returnable on a day at least five days before a primary election, and a copy thereof shall be served on the person against whom the proceeding is instituted at least forty-eight hours before the return thereof in the manner hereinbefore provided. *The said court, justice or judge shall have power to examine fully into the proceedings taken before such chairman or subcommittee and to receive affidavits or other evidence as to the manner in which such proceedings were conducted, and shall determine whether or not said proceeding was fairly conducted and the finding made therein was made upon sufficient grounds upon the merits, and he may approve or disapprove such finding as shall seem to him to be required to do substantial justice to the party against whom the proceeding was instituted and without regard to technical requirements.* The court, justice or judge upon approving of the finding of the chairman of such county general committee shall issue an order to the board of elections or to the custodian



of primary records requiring the name of the voter to be stricken from the enrollment books.

§ 26. The schedule of sections to article three of such chapter is hereby amended to read as follows:

### ARTICLE 3.

**[ENROLLMENTS AND PRIMARIES IN CITIES AND IN VILLAGES HAVING FIVE THOUSAND INHABITANTS OR MORE.] PARTY ORGANIZATION.**

**[Section 20. Application of article.**

21. Definitions and construction.
22. Enrollment books.
23. Enrollment books except in cities of one million inhabitants and of second class.
24. Enrollment books in cities of one million inhabitants and of second class.
25. Voting booths and enrollment boxes.
26. Enrollment blanks and envelopes.
27. Delivery of enrollment blanks to voters.
28. Enrollment by voters.
29. Examination, sealing and custody of enrollment boxes.
30. Certification and secrecy of enrollment.
31. Opening of enrollment box and completion of enrollment.
32. Special enrollment.
33. Special enrollment for annexed territory.
34. Special enrollment upon becoming of age.
35. Special enrollment after moving.
36. Duplicate enrollment books.
37. Use of duplicate enrollment books at unofficial primaries.
38. Use of original enrollment books at official primaries.
39. Right to enroll and vote at primaries.
40. New enrollment books for changed districts.
41. Enrollment books to be public records; transcripts of enrollment.
42. Publication of enrollment in cities of one million inhabitants.

- Section** 43. Judicial review of enrollment in cities of one million inhabitants.
44. Correction of enrollment in cities of one million inhabitants, with respect to persons not in sympathy with party.
45. Times and purposes of official primaries.
46. Congressional primaries, and additional primaries in presidential years.
47. Expense of official primaries.
48. Primary districts and polling places.
49. Notice of primaries; hours of voting.
50. Unofficial primaries.
51. Restrictions as to place of primaries.
52. Primary election officers.
53. Appointment and removal of primary election officers.
54. Chairman; compensation of inspectors; oath.
55. Ballots, booth and supplies.
56. Voting at official primary elections.
57. Challenging at official primary elections.
58. Persons within the guard-rail.
59. Watchers; challenges; electioneering.
60. Canvass of votes.
61. Proclamation and statement of result.
62. Certificates of election; preservation of ballots.
63. Canvass of statements of result.
64. Committees, and rules and regulations of parties.
65. Organization of committees and adoption of rules.
66. Conventions; apportionment of delegates.
67. Organization of conventions.
68. Contested seats.
69. Substitution of delegates; date of convention.
70. Substitution of, and review by, the courts.
71. Direct nomination of candidates at primary elections.
72. Application of this article to political parties.
73. Application of this article to cities of the third class and villages.
74. Perjury.】

*Section 35. Party committees.**36. State committee.**37. County and other committees.**38. Organization and rules of committees.**39. Review of election of committees.**40. Removal of member of committee.*

§ 27. Such chapter is hereby amended by inserting in article three thereof six new sections, to be known as sections thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine and forty, to read as follows:

§ 35. *Party committees.* Party committees shall consist of a state committee, judicial district committees, congressional district committees, senatorial district committees, assembly district committees, county committees, city committees, borough committees, together with such subcommittees, or executive or campaign committees, appointed by such state or other committees as herein provided for, and also such other committees as may be provided for by the rules and regulations of the party desiring such additional committees.

§ 36. *State committee.* The state committee shall consist of such number, and elected from such units of representation, as the respective parties shall provide, by rules and regulations adopted at the state convention when state officers are to be nominated, and the members shall be elected by the delegates to such state convention from the several units of representation; and until the adoption of such rules and regulations by any party, the number of members of state committees, and the units of representation therefor, of the respective parties shall continue as they now exist under the present rules and regulations of such parties.

Each member of the state committee shall be a resident of the unit of representation he is elected to represent, or of the county of which such unit of representation is a part.

Members of state committees shall hold office until the holding of the next state convention for nominating state officers, except in years when a president is to be nominated, in which years they shall be elected at the convention held under the provisions of section fifty-three of this act, and shall hold office until the convention for the purpose of nominating state officers, two years thereafter. In case of the death, declination, disqualification or removal from

*office of a member of the state committee or the failure to elect a member as by reason of a tie vote, the vacancy in the state committee caused thereby shall be filled by the remaining members of the state committee. The state committee of each political party shall have power and authority to designate the time and place of holding the state convention of such political party and shall have authority to fill all vacancies caused by the death, declination or disqualification of any candidate who is nominated by the state convention, or if any certificate of nomination is found to be defective, or not wholly void, to make and file a new certificate with the secretary of state, such nominations to fill vacancies or the making of new certificates to cure irregularities in those formerly filed, to be done and performed in the manner provided for in section one hundred and thirty-five of this act as to vacancies in nomination for public office or curing defects in certificates of nomination.*

*§ 37. County and other committees. Members of the county, judicial, senatorial district, congressional district, assembly district, city, borough, aldermanic district and municipal court district, shall be elected at primary elections as herein provided for.*

*Members of the county committee shall consist of such number and elected from such units of representation as the rules and regulations of the party may provide, excepting that there shall be at least one member of such committee from each election district in the county.*

*Where a judicial district, senatorial district, congressional district, assembly district, aldermanic district, municipal court district, city or borough is coterminous with or less than the limits of but wholly within an entire county, the members of the county committee from such judicial district, senatorial district, congressional district, assembly district, aldermanic district, municipal court district, city or borough, shall constitute the judicial district, senatorial district, congressional district, assembly district, aldermanic district, municipal court district, city or borough committee, unless otherwise provided for by the rules of the party.*

*In case a judicial, congressional, senatorial or assembly district consist of more than one county, the judicial, congressional, senatorial and assembly committee shall be composed of the chairman*

*and secretaries of the county committees of the parties of the counties comprised in such political division.*

§ 38. *Organization and rules of committees. Every party committee, including the state committee, shall within ten days after their election meet and organize by the election of a chairman and secretary, and such other officers as its rules may provide, and within three days file with the secretary of state a certificate stating the names and post-office address of the chairman and secretaries so elected. Every party committee shall have the power to designate and appoint such subcommittees as it deems proper, including a committee to conduct a campaign or election for such party, which latter committees may be composed, in whole or in part, of persons not members of the committee by whom they are appointed.*

*Each committee may, and each state and county committee must, prepare rules and regulations for the government of the party and the conduct of the official primaries within its political subdivision, which may include the payment of dues. Within three days after the adoption of such rules and regulations a certified copy of the same shall be prepared and filed by the secretary with the custodian of primary records for that political subdivision with whom the name of such committee was filed. Such rules shall continue to be the rules and regulations for that committee until they are amended or new rules adopted. Such rules and regulations may be amended from time to time by a majority vote of the committee upon the following notice:*

*A copy of the proposed amendment shall be sent with the notice of the meeting at which such amendments are to be proposed, such notice to be not less than five days before such meeting, and to be mailed to the post-office address of each member of the committee. Until the adoption of such rules and regulations, the rules and regulations of the existing committee, so far as consistent with this chapter, shall continue to be the rules and regulations of the party for that political subdivision.*

§ 39. *Review of election of committees. The election of members to any party committee may be reviewed by summary proceedings before the supreme court or a justice thereof, as provided for in section seventy of this act, upon the petition of any person*

*qualified to vote at the primary election of the party which such committee represents.*

§ 40. *Removal of member of committee. A member of a party committee may be removed by such committee, for disloyalty to the party or corruption in office, after notice and a hearing upon written charges, to be heard by the committee or a subcommittee thereof appointed for that purpose, which shall report its findings to the full committee. The action of any committee in removing a member thereof as herein provided for may be reviewed in a summary proceeding before the supreme court or by a justice thereof, upon a petition of the person so removed.*

§ 28. The schedule of sections to article four of such chapter is hereby amended to read as follows:

#### ARTICLE 4.

##### **[ENROLLMENTS AND PRIMARIES IN TOWNS] DESIGNATION OF CANDIDATES FOR PARTY NOMINATIONS OR FOR ELECTION TO PARTY POSITIONS.**

Section [90. Territory excepted from operation of article.

91. Application of article.
92. Enrollment books.
93. Entries in enrollment books; duties of election officers.
94. Special enrollments; correction of enrollment lists.
95. Special enrollment upon becoming of age.
96. Special enrollment after moving.
97. County clerks to compile enrollment lists.
98. Enrollment lists, when to take effect.
99. Who may be enrolled.
100. Enrollment lists and statements to be public records; certified copies.
101. Conduct of primary elections; challenges.
102. Judicial review.
103. Expense a town charge.
104. **Penalty.]**
45. *Direct nomination of candidates for certain public offices; election of delegates; eligibility.*
46. *Designations by party committees.*

- Section 47. *Meetings of committees for purposes of designation.*
48. *Designation by petition.*
49. *Filing of designations.*
50. *Declination by person designated.*
51. *Certificate by secretary of state.*
52. *Vacancies, how filled.*
53. *Delegates to national conventions.*
54. *Presidential electors.*
55. *Special provision for the year nineteen hundred and eleven.*
56. *Contests; judicial review.*
57. *Emblems.*
58. *Official primary ballot.*

§ 29. Such chapter is hereby amended by inserting in article four thereof thirteen new sections, to be known as sections forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven and fifty-eight to read as follows:

§ 45. *Direct nomination of candidates for certain public offices; election of delegates; eligibility.* 1. *Party nominations of candidates for a public office can only be made by a convention or at a primary of the political party.*

2. *Party nominations for officers to be voted for by all the voters of the state shall be made by conventions composed of delegates selected in the manner provided for in this article.*

3. *Party nominations for an office to be voted for by all the voters of the state, in a year when a governor of the state is not to be elected, or to fill vacancies caused by the death, declination or disqualification of the person nominated for an office at a state convention, shall be made by the state committee of the respective parties, unless otherwise provided for by the rules and regulations made by the state convention of the party desiring such nominations or the filing of vacancies to be otherwise made.*

4. *All other nominations and elections by a political party, both for party nominations and party positions, shall be made at the primary election herein provided for except that party nomina-*

tions for town, ward and village officers and for the office of school director shall be made in the manner prescribed by rules to be adopted by the party committee of the county wherein such town, village or school district is located, and of the city committee, wherein such ward is located.

5. Party nominations for an office to be voted for at a special election shall be made in the manner prescribed by the rules and regulations of the respective parties.

6. Candidates for party nominations to be made at the primaries and for election to party positions shall be designated either:

a. By party committees, organized and acting as by this chapter provided; or

b. By petition, as in this chapter provided.

A person shall not be a candidate for delegate to the state convention of a party or eligible for the position of delegate unless he is an enrolled voter of the party within the county containing the unit of representation for which such position is to be filled.

§ 46. Designations of party committees. 1. The respective committees of each party, constituted as herein provided, may designate candidates for party nominations for public office to be placed upon the official primary ballot in accordance with the provisions of this chapter, as follows:

Each congressional district committee, for representative in congress;

Each senatorial district committee, for state senator;

Each judicial district committee, for justice of the supreme court;

Each assembly district committee, for member of assembly;

Each county committee, for county officers, and in the county of New York also for judges of the court of general sessions, and for justices of the city court of the city of New York;

Each city committee, for city offices to be filled by the voters of the entire city;

Each borough district committee, in a city containing more than one million inhabitants, for borough offices;

Each municipal court district committee, in a city containing



*more than one million inhabitants, for justices of the municipal court in said city;*

*Each aldermanic district committee, in a city containing more than one million inhabitants, for alderman.*

*A candidate for party nomination to public office required to be made by direct vote of the enrolled party voters, whose designation by a party committee is not hereinbefore provided for, may be designated by any other committee created and organized and upon which such power is conferred by the rules and regulations of the party.*

*2. Candidates for election as delegates to the state convention of a party may be designated by the committee of the political subdivision constituting the unit of representation of delegates thereto.*

*3. A candidate for election as member of the state committee may be designated by the committee for the district from which he is elected. A candidate for election as member of any other committee may be designated either by the member or members thereof from the same unit of representation or by such other committee, chosen by the enrolled party voters within such unit, as the rules and regulations of the party may prescribe, but any such rule or regulation, properly authenticated, shall be filed with the custodian of primary records authenticated, shall be filed with the designation is made.*

*4. Designation by party committees of candidates for party nominations or for party positions shall be made in the manner provided in this article and not otherwise.*

*47. Meetings of committee for purposes of designation. 1. Time of meetings. For the purpose of designating candidates such committees shall meet not earlier than the fourth Tuesday nor later than the third Tuesday preceding the primary.*

*2. Notice of meetings. Except as hereinafter provided, notice of the time, place and purpose of every meeting to be held to designate candidates shall be duly mailed to each member of the committee at his post-office address not less than fifteen days before the day fixed for such meeting. Each such notice shall be filed not less than ten days before the day fixed for such meeting in the office in which designations by the committee of candidates are required to be filed.*

**3. Conduct of meetings.** *Each meeting of a committee for the purpose of making such designations shall be open to the public. A committee in making designations of candidates for different offices shall make them in the order in which said offices will appear on the ballot at the general election. Each designation by a committee of a candidate or candidates shall be made in the manner provided in the rules and regulations of the party. But no designation shall be made for the nomination to any county office except by a committee composed of at least three members of the county committee from each assembly district within the county.*

§ 48. *Designation by petition. Every petition for the designation of a candidate for party nomination or for election to a party position shall be in substantially the following form:*

*I, the undersigned do hereby certify that I am a duly enrolled voter of the ..... party, as herein below specified, and entitled to vote at the next primary election of said party, and I do hereby designate the following named person, or persons, as a candidate, or candidates, for nomination by the ..... party for public office, or offices, or as a candidate or candidates for election to the position, or positions, of the said party to be voted for at the official primary election to be held on the ..... day of ....., A. D., ....., as herein-after specified, and it is my intention to support at the ensuing primary the candidacy of the person or persons and each of them herein designated by me.*

	<i>Public office</i>	
<i>Name of candidate.</i>	<i>or party position.</i>	<i>Place of residence.</i>
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

*I do hereby appoint [here insert the names of at least three persons] as a committee to fill vacancies in accordance with the provisions of the election law.*

*In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.*

<i>Date.</i>	<i>Name of signer.</i>	<i>Residence.</i>	<i>Election district, town or ward.</i>
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

*State of New York,* }  
*County of* } ss.:

*On this ..... day of ..... in the year ..... before me personally came (here shall be inserted the names of each and every voter appearing and making oath before the said officer) each of whom was to me personally known and known by me to be the voter whose name and place of residence is subscribed by him to the foregoing certificate and each of the foregoing voters being by me duly and severally sworn did make oath that he is a voter and has truly stated his residence, and that it is his intention to support at the polls the candidacy of the person or persons designated for nomination for public office in the foregoing certificate of designation, if the same are nominated.*

*(Signature and official title.)*

*A petition for the designation of candidates for party nomination or for election to party position may designate candidates for nomination for one or more public offices, or for election to one or more party positions, or both.*

*Petitions for designation of candidates for party nominations or for the election of candidates to party positions shall be signed by at least five per centum of the total enrolled voters of such party within the district, within which such office, or within the unit of representation for which such party position, is to be filled and by not less than four per centum of the total vote cast in that political subdivision for the candidate for governor at the last preceding gubernatorial election.*

*All papers signed and verified in the manner and form above prescribed for the purpose of designating the same candidate for*

*nomination for the same public office or the same party position shall, when bound together and offered for filing as provided in this chapter, be deemed to constitute one petition with respect to said candidate.*

*No enrolled voter shall join in designating a greater number of candidates for party nomination for a public office or for election to a party position than the number of persons to be elected thereto. Where an enrolled voter shall sign any petition or petitions designating a greater number of candidates than he is permitted to designate as aforesaid his signatures, if they bear the same date, shall not be counted, and if they bear different dates they shall be counted in the order of their priority of date and only so far as he was entitled to make designations.*

§ 49. *Filing of designations. 1. Where to be filed. All designations of candidates for offices and for election to party positions to be filled by the voters of any subdivision of the state shall be filed with the officer with whom certificates of nomination for such office or offices are required by this act to be filed. All designations filed in accordance with the provisions of this section shall forthwith be filed by the custodian of primary records in his office and shall be open to inspection as public records at all reasonable hours, and each custodian of primary records shall provide ample and sufficient facilities for keeping said records and making copies of the same.*

*2. When to be filed. Designations by party committees shall be filed not earlier than nine o'clock in the morning of the fourth Tuesday and not later than five o'clock in the afternoon of the third Tuesday preceding the primary at which the candidates therein designated are to be voted for; each designation shall be so filed by filing a certificate thereof made by the chairman and secretary of the meeting of the committee at which the designations are made and said certificate shall be accompanied by a complete and accurate record of the proceedings of the meeting of the committee. All designations by petition shall be filed not earlier than nine o'clock in the morning of the fourth Tuesday and not later than five o'clock in the afternoon of the second Tuesday preceding the primary at which the candidates therein designated are to be voted for. All designations shall at the time of the filing thereof*

be stamped or indorsed by the secretary of state, or the custodian of primary records, as the case may be, with the day, hour and minute of such filing.

§ 50. *Declination by person designated.* The name of a person designated as a candidate for nomination for party position shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his designation is filed in a writing signed and duly acknowledged by him that he declines the designation, or if designated by the party committee or one or more independent bodies, the name of the person so designated shall not be printed on the ticket of the committee or independent body whose designation he shall in like manner decline. Such declination shall be filed within five days after the third Tuesday preceding the ensuing primary. The officer with whom such declination is filed shall forthwith inform by mail or otherwise the committee authorized to fill vacancies in designations, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise of such designation to the several custodians of primary records for the election districts affected by such declination.

§ 51. *Certification by secretary of state.* The secretary of state shall, at least seven days before an official primary election, except a primary election held to nominate candidates to be voted for at a special election, prepare and transmit to the several custodians of primary records within the political subdivisions where the candidates, designations of whom have been duly filed with him are to be voted for, a certificate setting forth the names and residences of such candidates and the titles of the offices for which they are named, and the name of the party upon whose primary ballot their names are to be placed, and the emblem or device chosen to represent and distinguish the candidates of the committee or petitioners making such designations, and in case of a special election he shall prepare and transmit such certificate at least three days before the official primary election.

§ 52. *Vacancies, how filled.* If a candidate regularly designated for election to party position, or for a party nomination for public office, declines a nomination or dies before the primary day, or is found to be disqualified to hold the office or po-

sition for which he has been designated, a committee to fill vacancies, which may be appointed by the party committee making such designation and the appointment of which must be duly certified with the designation, or which may be appointed by the signers and shown upon the face of the petition of designation, may make a new designation, to fill the vacancy so created, by making and filing with the officer with whom the original designation was filed a certificate setting forth the cause of the vacancy, the name of the person designated by them, the name of the original candidate, and the name of the party on whose behalf the original certificate of designation was made. Such certificate shall be subscribed and acknowledged by a majority of the members of the committee to fill vacancies, who shall severally make oath that the matters therein stated are true, to the best of their knowledge and belief, and when so filed such certificate shall have the same force and effect as the original certificate of designation, or the original petition, as the case may be. In case such certificate shall be filed with the secretary of state, he shall forthwith certify to the proper custodian, or custodians, of primary records the name of the person designated by such certificate and such other facts as are required to be stated therein. In case the certificate from the secretary of state shall be received by a custodian of primary records, or an original certificate of designation as in this section provided for shall be filed with him, after the official ballots have been printed and before primary day, it shall be his duty to prepare and furnish to the inspectors of election in each election district adhesive pasters containing the name of the candidate designated to fill the vacancy with directions for the proper use thereof. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no longer than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been designated. Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the person originally designated, the name of the person designated in the

*new certificate, the title of the office or party position for which the designation is made, the name of the political party to which the committee making the designation belongs, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for each such district. Upon the delivery of said pasters the inspectors of election shall sign and receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall affix one of such pasters in the proper place and in a proper manner upon each official ballot before such ballot shall be delivered to a voter. When so affixed to an official ballot the paster shall be a part of the official ballot. The inspectors shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be inclosed in the package of ballots not delivered to voters. The use of any paster upon the official ballot otherwise than as herein provided is hereby prohibited.*

§ 53. *Delegates to national conventions. The rules and regulations of each political party may prescribe that the delegates to a national convention of that party shall be elected either at state conventions held by such party or from congressional districts, or partly by state conventions and partly from congressional districts. In each year when a president and vice-president of the United States are to be elected, there shall be a primary election for the choice of delegates to the national convention on the last Tuesday in March of such year. In case the rules and regulations of a political party provide for the election of delegates to a national convention by a state convention the enrolled electors of such political party shall elect the delegates to such state convention from such political subdivision as the rules and regulations of the party may provide. In case the rules and regulations of the party provide for the election of delegates and alternates from congressional districts to the national convention, the enrolled electors of such political party in the several congressional districts shall elect the delegates and alternates from such congressional districts at the primary herein provided for that purpose.*

*The primary elections held on the last Tuesday of March in each year, as herein provided for, for the election of delegates to a state convention to elect delegates and alternate delegates to a national convention, or to elect delegates and alternate delegates from such congressional district to a national convention shall be subject to all the provisions of this chapter for the conduct of primary elections on the annual primary day.*

§ 54. *Presidential electors. In each year when a president of the United States is to be elected, candidates for the office of elector for president and vice-president of the United States shall be nominated by the state committee of each of the parties to which this act applies, one for each congressional district, and two at large. The candidates so nominated shall be certified to the secretary of state in the same manner as party nominations for state offices.*

§ 55. *Special provision for the year nineteen hundred and eleven. Party committees now existing, which under existing rules and regulations of a party are charged with the general care and supervision of the affairs of the party within a specified political division, and such new committees as may be constituted prior to the fall primary in the year nineteen hundred and eleven according to duly adopted rules and regulations of any party for the purpose of having such care and supervision within any such political division, may also have and exercise all powers conferred by this chapter upon committees for the same political divisions in relation to the designation of candidates for party nominations for offices to be filled at the general election in the year nineteen hundred and eleven and in relation to the designation of candidates for party positions; but such powers hereby granted shall not extend beyond said fall primary, and no member of such a committee shall be entitled to cast more than one vote.*

§ 56. *Contests; judicial review. Any action or neglect of the officers or members of a political convention or committee, or of any inspector of primary election, or of any public officer or board with regard to the right of any person to participate in a primary election, convention or committee, or to enroll with any party, or with regard to any right given to or duty prescribed for, any*



voter, political committee, political convention, officer or board, by this article, shall be reviewable by summary proceedings upon the petition of any person aggrieved thereby, or upon a petition presented by the chairman of any political committee, which summary proceedings may be instituted before the supreme court or a justice thereof within the judicial district where the transaction, act or neglect of duty took place. Such proceedings shall be heard upon such notice as the court or justice thereof shall direct. In reviewing such action or neglect, the court, justice or judge shall consider, but need not be controlled by, any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto, and shall make such decision and order as, under all the facts and circumstances of the case, justice may require. For the purposes of this section, service of any notice or order or other process of the court or justice thereof upon the chairman or secretary of a convention or committee or board whose action is sought to be reviewed or directed shall be sufficient. The action of any custodian of primary records in canvassing and certifying the result of any primary election, or of the secretary of state in preparing and certifying the list of delegates to any convention, or members of a state committee, may be reviewed in like manner by the supreme court, or a justice thereof, which by order may make any change in the result of such primary election as certified to by the custodian of primary records, or any change or alteration in the list of delegates or members of a state committee prepared by the secretary of state, as justice may require. The change or alteration so made, if the result is as to the nomination of a candidate for an elective office, the name of the person so adjudged to have received the greatest number of votes at such primary for such elective office shall be placed upon the official ballot as the candidate for the party holding such primary; and any change or alteration so made by the court or the justice thereof in the statement of the list of delegates shall be included in the statement of the list of delegates to be certified by the secretary of state, to the chairman or the secretary of the state committee, or the chairman of such other political committee, as under the provisions of this article, are empowered to call the conventions to which such delegates are

*elected. Proceedings taken under this article shall have precedence and priority over all other actions and proceedings in the supreme court or before a justice thereof. The court, or a justice thereof, upon such proceeding, shall have the right to subpoena and examine witnesses, or in its discretion to hear and determine the case upon affidavits. In case the court or a justice thereof should find and determine that both parties to the controversy had been guilty of frauds or that the primary has been so permeated by fraud as to render it impossible for him to determine the true result of such primary and who was elected thereat, such court or justice shall have the right to direct the holding of a new primary at the same place and in the same manner as the regular official primary, or in case of a contest over the result of the convention, which has been characterized by such frauds and irregularities as to render it impossible for such court or justice to determine who was rightfully nominated at such convention, to direct the reassembling of such convention upon a date to be fixed by such court or justice for the purpose for which such convention was originally convened. The court, or justice thereof, in case of ordering a new primary, may include in such order directions for the canvassing of the vote of such new primary, and the case of ordering a new convention shall contain directions to the proper party officials as to giving notice to each delegate and alternate delegate to such original convention of the time and place for the reassembling of the convention.*

§ 57. *Emblems. A committee emblem may be selected, for any primary election, by any committee designating candidates for nominations thereat. Such emblem shall be chosen at the meeting at which designations of candidates are made, and a representation thereof certified in the same manner as the designation of candidates by such committee, shall be filed with the same board or officer and at the same time as the certificate of designation of candidates. A committee emblem once designated, however, shall continue as the emblem of such committee for subsequent primaries until changed in the manner above provided for the original adoption. A petition for the designation of a candidate for nomination to public office or election to a party position may likewise select an emblem to distinguish the candi-*

dates designated by such petition, and such emblem shall be shown by the representation thereof upon such petition. An emblem chosen as aforesaid may be any appropriate symbol, other than the coat of arms or seal of the state or of the United States, or the state or national flag, or any religious emblem or symbol, or the portrait of any person or the representation of a coin or of the currency of the United States, or the party emblem of any party. Conflicts in emblems, except as otherwise provided in this article, shall be determined, and omitted emblems supplies, in the manner, so far as practicable, provided for by section one hundred and twenty-five and one hundred and twenty-six of this chapter, in respect to emblems to be placed upon the official ballot.

§ 58. Official primary ballot. There shall be prepared, printed and supplied in the manner hereinafter provided, for use at official primary elections, official primary ballots, and except as otherwise expressly provided in this chapter, no other ballot shall be used at an official primary election.

No names of candidates for any nomination to public office or election to a party position shall be printed upon the official primary ballot, except upon designation duly made as prescribed in this chapter; nor shall any names, words, or signs, or writing whatever be printed, written, stamped or in any manner placed upon an official primary ballot except as herein provided.

The official primary ballots shall conform in quantity, weight, color and style of printing, to the ballots described in this chapter for use at the general election. The ballot shall be printed upon the same leaf of the stub and separated therefrom by a perforated line. The part above the perforated line, designated as the stub, shall extend the entire width of the ballot, and shall be of sufficient depth to allow the following instructions to voters to be printed thereon in type known as brevier, with the word "Instructions" in large type above:

"This ballot shall be marked in one of two ways with a pencil having black lead. To vote a straight ticket mark a cross X mark within the circle above such ticket. To vote a split ticket, that is, for candidates under different circles, the vote shall make a cross X mark before the name of each candidate for whom he votes. If the ticket marked in the circle for the straight ticket does not contain the names of all candidates for whom the voter may vote,

he may vote for candidates so omitted by making a cross X mark before the names of candidates for the same offices or positions on another ticket, or by writing the names if they are not printed upon the ballot, in the blank column, under the title of the office or party position. To vote for a person not on the ballot, write the name of such person under the title of the office or party position in the blank column. Any other mark than the X mark used for the purpose of voting, or any erasure made on this ballot, makes it void, and no vote can be counted hereon. If you tear or deface or wrongfully mark this ballot, return it and obtain another, but only one additional ballot may be thus obtained."

Upon the face of the ballot and directly below the perforated line shall be printed the following: "Official ballot for the primary election of the (name or party) party," the name of the county and town or city; the date on which such primary is held; the assembly district number, number of the ward, and the election district number, directly below which shall be printed a heavy black line.

The portion of such ballot above such horizontal black line shall be divided into columns by lighter black lines. The titles of the different offices for which candidates are to be nominated, or party positions to be filled, shall be arranged in such columns in the following order, from top to bottom: Justice of supreme court, representative in congress, state senator, member of assembly, county and city officers in the order in which they respectively will appear upon the official ballot at the general election, delegates to state convention, member of state committee, member of county committee, and other committees in such order as the custodian of primary records shall determine. The titles of the public offices or party positions shall be printed in a space one inch in depth and at least two inches in width, divided by horizontal light ruled lines. Below the space containing the title of a public officer or party position shall be printed the name of the candidate or candidates for such office or position, separated by light horizontal lines with a blank space on the left thereof one-quarter of an inch square, inclosed by heavy dark lines which space is called the voting space. Below the names of the several candidates or group of candidates designated for the same public office or party position shall be printed a heavy line across the entire width of the ballot. Above

*the titles of the different offices for which candidates are to be nominated or party positions to be filled, in the center of a sufficient space separated therefrom by a heavy black line, shall be printed the emblem of the party committee or the emblem selected by the petitioners as the case may be by whom such candidates were designated. If the various committees of any party fail to unite in selecting the same committee emblem, the custodian of primary records shall select the same, to be printed in the appropriate space at the head of the committee column, upon all ballots to be used within his jurisdiction. Immediately below the emblem and in the same space, shall be printed in the center of such space a blank circle one-half inch in diameter, defined by heavier lines than the lines dividing the blank space before the names of candidates, as herein provided. The candidates designated by party committee shall be so arranged in the column to the extreme left. Candidates designated by petition shall be arranged in the other columns of the ballot from left to right in the chronological order in which the designations were filed, but with the titles of the public offices and party positions and the candidates designated therefor directly opposite the same titles and the names of candidates designated for the same offices or party positions in the committee column. The name of a candidate shall not appear more than once on the ballot as a candidate for the same public office or party position. To the right of the ballot shall be a column in which shall be printed only the titles of the public offices and party positions opposite the corresponding titles, respectively, under which the names of the candidate or candidates have been printed. Beneath each such title the spaces shall be the same size and arranged in the same manner as where the names of candidates are printed beneath the corresponding title, except that the voting space shall be omitted.*

*On the back of the ballot below the stub and immediately at the left of the center of the ballot shall be printed the name and emblem of the party, and in great primer roman, condensed capitals "Official primary ballot for," and after the word "for" shall follow the designation of the polling place for which the ballot is prepared, the date of the primary election, and a facsimile of the signature of the officer who has caused the ballot to be printed. Immediately above the center of such indorsement and upon the back of the stub, shall be printed the consecutive number of the*

NO. 1.

DEMOCRATIC PARTY

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DEMOCRATIC PARTY

(INSERT EMBLEM)

OFFICIAL PRIMARY BALLOT

FOR THE

99TH ELECTION DISTRICT<sup>r</sup> of

OF THE

43D ASSEMBLY DISTRICT,  
COUNTY OF NEW YORK,  
SEPTEMBER 19, 1911.

JOHN SMITH,

*Custodian of Primary Records*

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*ballot beginning with "No. 1," and increasing in regular numerical order, and on the back of the stub below the number, the name of the party. All ballots shall be substantially in the following form:*

§ 30. Such chapter is hereby amended by inserting therein a new article to be article four-a thereof, the schedule of which shall read as follows:

#### ARTICLE 4-A.

##### CONDUCT OF PRIMARY ELECTIONS; CANVASS OF RETURNS.

- Section 70. Organization and conduct of official primaries.*
- 71. Qualifications of voters at official primaries.*
- 72. Challenges at official primary elections.*
- 73. Expense of official primaries.*
- 74. Primary districts and polling places.*
- 75. Notice of official primary.*
- 76. Restrictions as to place of primaries.*
- 77. Removals from, and filling vacancies in, boards of primary election officers.*
- 78. Primary poll clerks.*
- 79. Ballots, booths and supplies.*
- 80. Delivery of ballots and manner of voting.*
- 81. Unofficial ballots.*
- 82. Preparation of ballot by votes.*
- 83. Persons within the guard-rail.*
- 84. Watchers; challengers; electioneering.*
- 85. Canvass of votes.*
- 86. Intent of voters.*
- 87. Proclamation and statement of result.*
- 88. Certificates of election; preservation of ballots.*
- 89. Canvass of statements of result; certificates of nomination or election.*
- 90. Filling vacancies and determination of tie vote after primaries.*
- 91. Primaries held to nominate candidates for special elections.*
- 92. Unofficial primaries.*
- 93. Penalty for violation.*
- 94. Perjury.*



§ 31. Such chapter is hereby amended by adding thereto as a part of article four-a a new section to be known as section seventy, and to read as follows:

§ 70. *Organization and conduct of official primaries.* 1. *Election officials for each election district shall comprise the election officers for the primary election in such election districts.*

2. *All said officers shall take and subscribe the constitutional oath of office, before entering on the discharge of their duties.*

3. *Such primary shall be held open from three o'clock in the afternoon until nine o'clock, post meridian, for voting thereat.*

4. *The primary election officers shall perform the same duties that they are required to perform in a general election, and such additional duties as are in this chapter prescribed and shall receive the same pay as for services on registration day.*

5. *In each year an official primary election shall be held on the seventh Tuesday before the general election; in each year in which a president of the United States is to be elected, an additional official primary election shall be held on the last Tuesday in March.*

§ 32. Such chapter is hereby amended by inserting therein as a part of article four-a thereof a new section to be section seventy-one, and to read as follows:

§ 71. *Qualifications of voters at official primaries.* No person shall be entitled to vote at any official primary unless he is duly enrolled and may be qualified to vote on the day of election. The primary election inspectors shall decide all questions that arise relating to the qualifications of voters.

§ 33. Section fifty-seven of such chapter is hereby renumbered section seventy-two, inserted unchanged as a part of article four-a thereof, to read as follows:

§[57] 72. *Challenges at official primary elections.* The right of an enrolled voter to participate in any official primary election shall be subject to challenge at any time before his ballot is deposited in the ballot box. When any enrolled voter shall be challenged, the chairman, or one of the members, of said board, shall forthwith put to him an oath or affirmation to answer truly such questions as shall be put to him, and he shall be allowed to vote if, and only if, he shall make such oath or affirmation, and

shall answer in the affirmative each of the following questions:  
 "Are you ..... (using the name which he has given  
 as his name) ?

Do you reside, and have you, for thirty days last past, resided  
 at ..... (giving the address which he has given as  
 his residence) ?"

34. Section forty-seven of such chapter is hereby renumbered  
 section seventy-three, inserted as a part of article four-a thereof,  
 and amended to read as follows:

§ [47] 73. Expense of official primaries. The expense of  
 official primary elections, including the expense of preparing and  
 copying new enrollment books and the compensation herein pro-  
 vided to be paid to primary election officers [inspectors], shall be  
 paid by the same officers or boards [of the city in which said  
 primary is held,] and in the same manner, as the expenses of  
 general elections. *If provisions shall not have been made for the  
 payment of such expense in any year, including the year one  
 thousand nine hundred and eleven, then the officers who are em-  
 powered by law to make such provisions in any county, city, town  
 or other political subdivision of the state, are hereby authorized  
 and directed to raise money to such an amount as may be neces-  
 sary, in any manner provided by law for meeting expenses in an-  
 ticipation of the collection of taxes and to pay such expense there-  
 from. The amount so raised shall be included in the amount to  
 be raised by tax in the ensuing year.*

§ 35. Section forty-eight of such chapter is hereby renumbered  
 section seventy-four, inserted as a part of article four-a thereof,  
 and amended to read as follows:

§ [48] 74. Primary districts and polling places. [The cus-  
 todian of primary records shall thirty days before each official  
 primary day, divide every ward or assembly district in a city and  
 every village to which this article is applicable, into primary  
 districts, each of which shall consist of two contiguous election  
 districts, except that in case there is an odd number of election  
 districts in such ward, assembly district or village, the highest  
 numbered election district shall be a primary district by itself.]  
*Each election district shall constitute a primary district. There  
 shall be [two] one polling place[s] in each of such primary dis-*

tricts which shall be designated and provided at public expense by the officers or boards whose duty it is to provide polling places for days of general election, and which shall be, so far as [they are] available, the [same] place[s as were] used for the last preceding general election. [The custodian of primary records shall assign one of the polling places in each primary district to the party which, at the last election of a governor, cast the highest number of votes for governor, and at the other polling place in such primary district there shall be held the primary elections of all other parties.]

§ 36. Section forty-nine of such chapter is hereby renumbered section seventy-five, inserted as a part of article four-a thereof, and amended to read as follows:

§ [49] 75. Notice of official primar[ies]y [hours of voting]. At least [twenty] *thirty-five* days before each official primary day the chairman of the general committee of each party subject to the provisions of this article, shall certify and deliver to the custodian of primary records a statement of the conventions, *the time when and the place where such conventions are to be held, and of the committees and offices for which delegates, members or candidates, as the case may be, are to be elected thereat, and the number of delegates to conventions, and members of committees, to be elected in each unit of representation.* The custodian of primary records shall prepare a notice of each official primary election provided for by this article, and shall publish such notice, not more than [ten] *thirty-five* days and not less than [five] *thirty* days prior to such primary election, in at least one newspaper having a general circulation in the city or village, of the political faith of each of the two parties which, at the last preceding election of a governor, cast the highest and next highest number of votes for governor. Such notice shall specify the day of such primary election, the hours during which it will be held, the location of each polling place, the election districts whose voters may vote at each such polling place, the name of the party or parties whose primary elections will be held thereat, and the conventions, committees and officers for which delegates, members or candidates, as the case may be, will be voted for thereat. [All official primary elections held in pursuance of this article shall be open from three o'clock in the afternoon to nine o'clock in the evening. All other

primary elections, if any, shall be open for not less than four hours, commencing not earlier than three o'clock in the afternoon and ending not later than ten o'clock in the evening.】

§ 37. Section fifty-one of such chapter, is hereby renumbered section seventy-six and inserted unchanged as a part of article four-a thereof to read as follows:

§ [51] 76. Restrictions as to place of primaries. No primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.

§ 38. Such chapter is hereby amended by inserting as a part of article four-a a new section, to be known as section seventy-seven thereof, and to read as follows:

§ 77. *Removals from, and filling vacancies in, boards of primary election officers. Removals from boards of primary election officers shall be made, and vacancies occurring in such board shall be filled, in the same manner as is provided in this chapter for making removals from boards of election officers and for filling vacancies therein on a day of registration.*

§ 39. Such chapter is hereby amended by inserting as a part of article four-a a new section, to be section seventy-eight thereof and to read as follows:

§ 78. *Primary poll-clerks. Each primary poll-clerk at each polling place at an official primary election shall have a poll-book for each party in each election district within the primary district for keeping the list of enrolled voters voting, or offering to vote thereat at the primary election. Each such book shall have columns headed respectively "Number of enrolled voter," "Name of enrolled voter," "Residence of enrolled voter," "Number on ballots delivered to enrolled voter," "Number on ballot voted," and "Remarks."*

*Upon each delivery of an official primary ballot by the primary ballot clerk to an enrolled voter, the primary poll-clerk shall enter upon the poll-book of the election district in which the enrolled voter resides, in the appropriate column, the number of the enrolled voter, in the successive order of the delivery of the ballots thereto, the name of the enrolled voter in the alphabetical order of the first letter of his surname, his residence by street and number, or if he have no street number, a brief description of the*

locality thereof, the printed number upon the stub of the ballots delivered to such enrolled voter, and the number of the ballot voted by him. If the ballot delivered to any enrolled voter shall be returned by him to the primary ballot clerk, and he shall obtain a new ballot, the primary poll-clerk shall write opposite his name on the poll-book in the proper column, the printed number of the stub of such ballot. Each primary poll-clerk shall make a memorandum upon his poll-book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll-book opposite the name of such person the names of the primary officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted.

As each enrolled voter offers the ballot which he intends to vote to the primary inspector, each primary poll-clerk shall report to the primary officers whether the number entered on the poll-book kept by him as the number on the ballot last delivered to such enrolled voter is the same as the number on the stub of the ballot so offered. As each enrolled voter votes, each primary poll-clerk shall enter in the proper column on his poll-book the number on the stub of the ballot voted. Upon the close of the polls of the primary election, the primary poll-clerks and all primary officers shall compare the poll-books with the enrollment books or registers and correct any mistakes found therein.

§ 40. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section seventy-nine, and to read as follows:

§ 79. *Ballots, booths and supplies.* The custodian of primary records shall have for each party printed ballots for each election district equal in number, as near as may be, to one and one-third times the total number of enrolled voters of the party in the election district, prepared as herein described, which shall be delivered by the custodian of primary records to the proper primary officers at the various polling places at least one-half hour before the time fixed for the opening of the polls. The polling places, voting booths, guard-rails, distance markers, ballot boxes, sample ballots, poll-books and other supplies required for official primary elections shall be provided and paid for by the same officers, and

*in the same manner, as in the case of general elections. At all official primary elections a separate box with the name and emblem of the party and with the number of the election district clearly and conspicuously written or printed thereon, shall be provided at each polling place for each party participating in a primary election at such polling place and for each election district the voters of which vote at such polling place; and there shall also be a large box for the reception of unwoted ballots and an additional box for detached ballot stubs and there shall be affixed to the outside of the polling place and in at least two places on the inside thereof, and in a conspicuous manner, placards printed with large-sized bold-face type, which shall specify the name of the parties whose primary election is being held in such polling place. Sample ballots shall be provided by the custodian of primary records for each party for each election district, equal in number, as near as may be, to twenty-five per centum of the number of official ballots required to be furnished for such party for such election district. Such sample ballots shall be printed on paper different in color from the paper used for the official ballot, and there shall be no numbers upon the stubs thereof, but in all other respects such sample ballots shall be precisely like the official ballots. One of such sample ballots shall be furnished upon application at any time on primary day to any voter entitled to vote the ballot of which he requests a sample.*

*The custodian of primary records shall prepare and furnish to each board of primary election inspectors two tally sheet blanks and two statement of result blanks for each political party whose primary election is under the jurisdiction of said board of primary election inspectors. Upon each of said blanks shall be indorsed the name of the party, the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district for which said blank is to be used.*

*Each such tally sheet shall consist of three columns separated from each other by vertical lines running from top to bottom of each page of the tally sheet. In the first column shall be printed the title of each public office for which a candidate is to be nominated, the name of each committee to which members are to be elected, and a description of each convention to which delegates are to be elected. Under the name of each public office for which*

*candidates are to be nominated and on the same page shall be printed, in alphabetical order, the names of all candidates for the nomination therefor. Under the name of each committee and on the same page shall be spaces in which the primary inspectors shall write, in alphabetical order, the names of all candidates for election thereto. Under the description of each convention and on the same page shall be spaces in which the primary inspector shall write, in alphabetical order, the names of all candidates for election as delegates thereto. Each name and each space upon said tally sheet shall be separated from the other names and spaces next thereto by parallel horizontal lines extending from one side of the sheet to the other. The second column upon the tally sheet shall be headed, at the top of each page thereof, "Space for tally as canvass progresses." The third column in like manner shall be headed "Space for total number of votes received by each candidate."*

*Each such statement of result sheet shall consist of two columns separated from each other by a vertical line running from top to bottom of each page of the sheet. In the first column shall be printed the title of each public office, the name of each committee, and description of each convention to which delegates are to be elected, and the names of all the candidates therefor, which shall be printed in the same manner and order as upon the tally sheet in the first column thereof. All names shall be separated from each other by parallel horizontal lines. At the head of each statement of result sheet shall be printed the following: "Statement of result of the vote cast at the official primary election held on the . . . day of . . . . . (the blanks being properly filled)," and there shall also be printed the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district. At the foot of each such statement of result sheet shall appear the following certificate to be signed by the primary election inspectors: "We hereby certify that the foregoing statement of result is true and correct in all respects.*

.....  
 .....  
 .....  
 .....

*Board of Primary Election Inspectors."*

*All pages of each tally sheet and of each statement of result sheet shall be securely bound together in convenient form.*

§ 41. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section eighty, and to read as follows:

§ 80. *Delivery of ballots and manner of voting.* No voter at a primary election shall be given or be allowed to mark or cast the ballot of any party with which he has not enrolled. The folding and delivery of ballots and the manner of voting shall be the same as prescribed for the folding and delivery of ballots and the manner of voting prescribed by the provisions of this chapter relating to general elections so far as the same may be applicable, excepting that each ballot after detachment of the stub by the officer charged with that duty shall be deposited in the separate box provided for the party designated on the ballot, and such officer, in addition to announcing the name of the voter and number of the stub, shall also announce the party name thereon.

§ 42. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section eighty-one, and to read as follows:

§ 81. *Unofficial ballots.* If, for any cause, the official ballots for any party shall not be provided as required by law at any polling place, upon the opening of the polls of any primary election thereat, or if the supply of official ballots for any party shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as practicable in the form of the official ballot, may be used.

§ 43. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section eighty-two, and to read as follows:

§ 82. *Preparation of ballot by voters.* On receiving a ballot the voter shall forthwith retire alone to one of the voting booths, and without undue delay unfold and mark his ballot. If he desires to vote a straight ticket, he shall make a cross × mark within the circle above such ticket. If he desires to vote a split ticket, that is, for candidates under different circles, he shall make a cross × mark before the name of each candidate for whom he votes. If the ticket marked in the circle for a straight ticket does



*not contain the names of all candidates for whom he desires to vote, he may vote for candidates so omitted by marking a cross X mark before the names of candidates for the same office or position on another ticket, or by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office or party position. Any straight line crossing any other straight line at any angle within the circle or voting space shall be deemed a valid voting mark. It shall not be lawful to make any mark on the ballot other than a cross X mark for the purpose of voting, and such mark shall be made only with a pencil having black lead, and only in the circle above the voting space to the left of the names of the candidates; except that the voter may write with a pencil having black lead in the blank space at the right of the ballot, under the proper title of the office or party position, the name of any person or persons for whom he desires to vote, whose name or names are not printed upon the ballot; not exceeding with the candidates for whom he has voted by cross X mark the total number of persons by whom such position is to be filled. It shall not be lawful to deface or tear a ballot in any manner, nor to erase any printed name, device, figure, word or letter therefrom, nor to erase any mark made thereon by such voter. If the voter deface or tear a ballot, or wrongfully mark the same or make an erasure thereon, he may obtain one additional ballot on returning to the ballot clerk the one so defaced or wrongfully marked.*

§ 44. Section fifty-eight of such chapter is hereby renumbered section eighty-three, inserted as a part of article four-a thereof. and amended to read as follows:

§ [58] 83. Persons within the guard-rail. From the time of the opening of the polls, until the result of the canvass of the votes cast thereat shall have been announced, and the official statements of such canvass shall have been signed, the ballot boxes and all voted ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except primary election [inspectors] officers, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, and persons duly admitted for the purpose of voting; provided, however, that any candidate voted for may be present at the canvass of the votes.

§ 45. Section fifty-nine of such chapter is hereby renumbered section eighty-four, inserted as a part of article four-a thereof, and amended to read as follows:

§ **[59]** 84. Watchers; challenges; electioneering. *The ballot and other boxes used at any primary shall be examined by the inspectors in the presence of the watchers, if any, before any ballots are received.* **[Watchers, not exceeding one]** *One watcher for each election district* **[.]** *may be appointed by any political committee, and by any two or more of the persons whose names are upon any ticket to be voted for at such primary election. Such watchers may be present at such polling place and within the guard-rail from at least fifteen minutes before the examination of any ballot or other box at the opening of the polls of such primary election until after the announcement of the result of the canvass of the votes cast thereat and the signing of the statements thereof by the inspectors. A reasonable number of challengers, at least one person for any three or more persons of each party holding its primary election at that polling place, whose names are upon any official ballot* **[ticket to be voted for]** *at such primary election, shall be permitted to remain just outside the guard-rail of each such polling place, where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open, at any polling place do any electioneering within such polling place, or within one hundred feet therefrom, in any public street or in any building or room, or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place on any primary day.*

§ 46. Section sixty of such chapter is hereby renumbered section eighty-five, inserted as a part of article four-a thereof, and amended to read as follows:

§ **[60]** 85. Canvass of votes. As soon as the polls at any official primary election shall close, the board of primary inspectors shall forthwith publicly canvass and ascertain the result thereof, and they shall not adjourn or postpone the canvass until it shall be fully completed. All questions touching the validity of ballots or their conformity with the provisions of this **[article]** *chapter shall be determined by a majority vote of the board of*

primary inspectors. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons during the canvass, to close, or cause to be closed, the main entrance to the room in which such canvass is conducted, in such manner as to prevent ingress or egress thereby. The board of primary inspectors shall proceed to canvass the vote by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the enrollment book[s] to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess, and, without unfolding them, forthwith destroy them. If two or more ballots shall be found in a [the] ballot box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the enrollment book[s] to have been deposited therein, and not otherwise. If there lawfully be more than one ballot box for the reception of ballots voted for at any one polling place, no ballot found in the wrong ballot box shall be rejected, but shall be counted in the same manner as if found in the proper box, if such ballots shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the enrollment book[s] to have been deposited in the proper box. The chairman only of the board of primary inspectors shall unfold the ballots taken from [the] a ballot box. When a ballot is not void, and a primary election inspector or a duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any way for the purpose of identification, the inspectors shall write on the back of such ballot "Protested as marked for identification," and shall specify over their signatures upon the back thereof the mark or markings upon such ballot to which objection is made.

The votes upon each such ballot shall be counted by them as if not so protested. If any ballots shall be rejected as void, the reason for such rejection shall be written on the back thereof by the chairman of the inspectors, or by an inspector designated by him. All ballots rejected as void, and all ballots protested as marked for identification, shall be inclosed in a separate sealed package, which shall be indorsed on the outside thereof with the names of the inspectors, the designation of the election district, and the number and kind of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. A statement of the number of ballots of *any party* protested as marked for identification, and of the number thereof rejected as void, shall be included in each of the statements of the result of the canvass *for such party*. If requested by any watcher, the inspector shall, during the canvass, exhibit any and all ballots cast at such primary election to such watcher, fully opened and in such condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand.

§ 47. Such chapter is hereby amended by inserting therein as a part of article four-a thereof, a new section, to be section eighty-six thereof, to read as follows:

§ 86. *Intent of voters. The following rules shall be observed in determining, upon the canvass of votes at a primary election, the intent of the voters in marking the official ballots; the word "ticket" referring therein to any group of candidates for nomination to one or more public offices or election to one or more party positions, or both, under the same emblem and circle, namely:*

*Rule No. 1. If the voter shall have made a voting mark in the circle above one ticket only, and no other voting mark appears in any column, and if no name shall have been written in the blank column above such lines, he shall be deemed to have cast his vote for all the candidates on the ticket so marked in the circle.*

*Rule No. 2. If the voter shall have made a voting mark in the circle above one ticket only, and shall have also made a voting mark or marks in the voting space or spaces before the name or names of a candidate or candidates only on the ticket so marked in the circle, the voting marks in the spaces before the name of*

*candidates on such ticket shall be treated as surplusage, and his vote shall be deemed to have been cast for all the candidates on the ticket so marked in the circle.*

*Rule No. 3. If the voter shall have made a voting mark in the circle above one ticket only, and shall have also made a voting mark in the voting space or spaces before the name or names of a candidate or candidates on one or more other tickets, he shall be deemed to have cast his vote for all the candidates on the ticket so marked in the circle, except for those for whom he has indicated his intention not to vote, by making a voting mark in the voting space before the name or names of individual candidates, on one or more other tickets, or by writing a name in the blank column, and the candidate or candidates so individually voted for on such other ticket or tickets shall be deemed to be the voter's choice for such other office or offices, party position or positions; provided, however, that:*

*Rule No. 4. When two or more persons are to be voted for for the same party position or public office, and the names of the several candidates therefor are printed under the title of the position or office for which all are running, and the voter shall have made a voting mark in the circle at the head of the ticket, and shall have also made a voting mark in the voting space before the name of one or more of a group of candidates for such party position or office on other tickets, provided that he shall not have marked the names of two or more of such candidates upon the same line upon the ballot, he shall be deemed to have cast his vote for all the candidates for such position or office so individually marked and for those in the circle, except for those candidates under such circles so marked whose names are upon the same line on the ballot, as the names of the candidates so individually marked, or written in the blank column, unless in addition to making the voting mark in the circle at the head of the ticket he shall also have made a voting mark before each one of the group of candidates for such party position or office for whom he desires to vote on the ticket so marked in the circle; provided further, however, that:*

*Rule No. 5. When two or more persons are to be voted for for the same party position or public office, and the names of the several candidates therefor are printed on any ticket under the title*

*of the party position or office for which all are running, and the voter shall have made a voting mark in the circle at the head of the ticket, and shall also have made a voting mark in the voting space before the name of more than one of the group of candidates for such party position or office printed on the same line on the ballot on other tickets, or by writing the name or names of a candidate or candidates in the blank column, he must also indicate by voting marks in the voting spaces on the ticket so marked in the circle the individual candidates of the group of candidates on such ticket for whom he desires to vote, or his vote shall only be counted for the candidates for such party positions or offices which are so individually marked on other tickets, or written in the blank column.*

*Rule No. 6. If the voter shall have made a voting mark in more than one circle at the head of the tickets, and if on either of such tickets there shall be one or more candidates for nomination to office or election to party position for which no other candidate or candidates is or are named on such other ticket or tickets so marked in the circle, his vote shall be counted for such candidate or candidates.*

*Rule No. 7. Subject to the foregoing rules if the voter marks more names than there are persons to be nominated for an office or elected to a party position, or if for any other reason it is impossible to determine the voter's choice of a candidate for nomination to an office or election to a party position, his vote shall not be counted for any nomination to such office or election to such party position but shall be returned as a blank vote for such office or party position.*

*Rule No. 8. A void ballot is a ballot upon which there shall be found any mark other than a cross X mark made for the purpose of voting, which voting mark must be made with a pencil having black lead, only in the circles or in the voting spaces to the left of the names of candidates; or one upon which anything is written other than the name or names of persons not printed upon the ballot, for whom the voter desires to vote which must be written in the blank column under the proper title of the office or party position with a pencil having black lead; or one which is defaced or torn by the voter; or one upon which there shall be found any erasure of any printed device, figure, letter or word,*

*or of any name or mark written thereon, by such voter; or in which shall be found inclosed a separate piece of paper or other material; and upon such ballot no vote for any candidate thereon shall be counted; but no ballot shall be declared void because a cross mark thereon is irregular in character.*

§ 48. Section sixty-one of such chapter, as amended by chapter two hundred and forty of the laws of nineteen hundred and nine, is hereby renumbered section eighty-seven, inserted as a part of article four-a thereof, and amended to read as follows:

§ [61] 87. Proclamation and statement of result. Immediately upon the completion of such canvass, the board of primary inspectors in each primary district shall make public oral proclamation of the result thereof, and shall make *upon the statement of result sheet for each party* a written statement of such result for each election district in such primary district, and also a duplicate thereof, which shall be known as the duplicate statement. Immediately after the completion of such statements, such board shall file the originals thereof with the custodian of primary records, and shall file the duplicate statements with the clerk of the city, town or village. [In any county which contains a city or village to which this article is applicable and has territory greater than such city or village, the officers presiding at primary elections held in the political divisions of such county outside of such city or village shall file with the custodian of primary records immediately after the holding of every such primary election a sworn statement of the delegates and members of general committees elected thereat.]

§ 49. Section sixty-two of such chapter is hereby renumbered section eighty-eight, inserted as a part of article four-a thereof, and amended to read as follows:

§ [62] 88. Certificates of election; preservation of ballots. At all reasonable times any watcher shall have reasonable opportunity to make a transcript of *any* such statement, or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned. [In the case of a primary election at which persons are elected to any convention or committee from election districts as the unit of representation, the board

of primary inspectors shall, promptly after canvassing the vote, deliver to each of the persons who receive the largest number of votes, as delegates to, or as members of, such convention or committee, or to the respective persons authorized in writing by them to receive the same, a certificate stating the total number of votes cast for the respective candidates and the number thereof received by such persons respectively. Such certificate shall be the evidence of the election of such persons, and shall entitle them and each of them to be placed upon the roll of, and be admitted to, such convention or committee.】

After the close of the canvass of the votes at *official* primary elections, the ballots cast thereat, except those rejected as void or protested as marked for identification, shall be replaced in the ballot boxes from which they were respectively taken, and such ballot boxes shall then be securely locked and sealed, and, *together with the box containing the stubs*, shall be returned to the officer from whom they were received, who shall safely keep the same, subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after such primary election, and until all suits or proceedings before any court or judge touching the same shall have been finally determined, when the ballots *and stubs* shall be removed and, without examination, destroyed. The custodian of primary records shall not be required to retain on file the enrollment books and other papers required to be filed with him by the board of primary inspectors for a period of more than three years unless otherwise directed by the district attorney of the county or a judge or justice of a court of record.

§ 50. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section eighty-nine, to read as follows:

§ 89. *Canvass of statements of result; certificates of nomination or election. 1. Canvass by custodians of primary records. The custodian of primary records shall forthwith proceed to canvass the statements of result filed with him as provided in this article, and shall complete such canvass within one hundred and twenty hours from midnight of the day upon which the primary election was held.*



*He shall canvass separately the votes cast in each election district by the enrolled voters of the several parties respectively.*

*The candidate for a party nomination to public office, or for election to a party position, to be filled by the voters of a territory wholly within an election district, ward or town, who has received the highest number of votes cast in the primary election of a party in such election district, ward or town, shall be the nominee of said party for such public office, or shall be elected to such party position. Said custodian shall forthwith deliver to such candidate, if nominated for public office, a certificate of nomination. and if elected to a party position, a certificate of his election.*

*The candidate for a party nomination to public office, or for election to a party position, to be filled by the voters of a district wholly within the jurisdiction of a custodian of primary records and greater than an election district, ward or town, who has received the highest number of votes cast, in the primary election of a party, shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The custodian of primary records shall forthwith deliver to such candidate a certificate of such nomination to public office or election to party position, as the case may be.*

*The custodian of primary records shall duly certify to the secretary of state a statement of the vote cast in the primary election by the enrolled voters of each party, respectively, in each assembly district in the territory within his jurisdiction for all candidates for public office, or for party position, whose designations are required by this chapter to be filed in the office of the secretary of state. Such certificate shall be filed by such custodian in the office of the secretary of state within one hundred and twenty hours from midnight of the day on which the primary election was held.*

*2. The secretary of state shall forthwith proceed to canvass the certified statements so filed with him, and such canvass shall be made separately as to the candidates of each party.*

*The candidate who has the highest number of votes shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The secretary of state shall*

*forthwith transmit to such candidate a certificate of such nomination to public office or election to party position, as the case may be.*

*3. A certificate of nomination or election at an official primary of a party duly issued as herein provided shall entitle the person to whom it is issued, if a candidate for public office, to a place on the official election ballot as the candidate of said party for the office for which he has been nominated, and if a candidate for party position to membership in the committee or to a seat in the convention to which he is elected. Upon the completion of said canvass to be made by the secretary of state, he shall prepare certified statements of the result of the primary election of each party participating therein, and shall make up the rolls of the conventions for which delegates were elected at such primary election and shall promptly mail or deliver the certificate containing the names of delegates to the state convention to the chairman and secretary of the state committees of the respective parties participating in such primary election.*

§ 51. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section ninety, and to read as follows:

§ 90. *Filling vacancies and determination of tie vote after primaries. A vacancy in a nomination for public office made at a primary election shall be filled as follows: A vacancy caused by the declination, disqualification or death of a candidate, or by a tie vote, shall be filled by the committee of the party authorized by this chapter to make designations for such office. Such vacancy may be filled by a majority vote of a quorum of such committee, except that in case of a vacancy caused by a tie vote it shall be filled by a two-thirds vote thereof. Certificates of such nomination shall be filed in the office in which a designation of a candidate for such office is required to be filed.*

§ 52. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be section ninety-one, to read as follows:

§ 91. *Primaries held to nominate candidates for special elections. Party nominations to an office to be voted for at a special election shall be made in the manner prescribed by the rules and regulations of the respective parties.*

§ 53. Section fifty of such chapter is hereby renumbered section ninety-two, inserted as a part of article four-a, and amended to read as follows:

§ [50] 92. Unofficial primaries. Notice of all unofficial primary elections shall be given in the same manner as in the case of official primary elections, except that such notice shall be given by the proper party officers and shall not be at public expense. Unofficial primary elections shall be held in such places within the unit of representation for which the primary election is held, as shall be designated by the proper political committee, but there shall be at least one polling place within and for each assembly district, ward or village. The chairman and secretary of the political committee calling an unofficial primary election, or under whose direction such primary election is held, shall post and keep posted during the election, at or near the entrance to the room where the primary election is held, so that the same is clearly visible from the street, a conspicuous notice calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules and regulations of such party.

*There shall be a chairman and secretary for each unofficial primary and there may be tellers. No person shall be entitled to vote at an unofficial primary unless he may be qualified to vote on the day of election.*

*The chairman may administer any oath required to be administered at any primary and he shall decide all questions that arise relating to the qualification of voters when a voter is challenged by any elector and shall reject such vote unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter and shall state under oath that he is qualified to vote at such primary.*

*The ballot box used at the primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass*

*of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.*

*No unofficial primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.*

§ 54. Such chapter is hereby amended by inserting therein as a part of article four-a a new section, to be known as section ninety-three, and to read as follows:

§ 93. *Penalty for violation. Unless otherwise expressly provided in this chapter any person violating any of the provisions of articles two, three, four, four-a and four-b of this chapter is guilty of a misdemeanor.*

§ 55. Section seventy-four of such chapter is hereby renumbered section ninety-four, inserted as a part of article four-a thereof, and amended to read as follows:

§ [74] 94. *Perjury. All oaths administered under the provisions of [this article] the preceding articles of this chapter are hereby declared to be oaths required by law, and to be necessary for the ends of public justice.*

§ 56. Such chapter is hereby amended by inserting therein a new article, to be article four-b thereof, the schedule of which shall read as follows:

#### ARTICLE 4-B.

##### CONVENTIONS.

*Section 110. Filling vacancy in position of delegate to convention at official primary.*

*111. Apportionment of delegates.*

*112. Organization of conventions.*

*113. Time of holding state convention; credentials of delegates.*

*114. Voting at state convention.*

§ 57. Such chapter is hereby amended by inserting therein, as a part of article four-b thereof, a new section, to be section one hundred and ten, and to read as follows:

§ 110. *Filling vacancy in position of delegate to convention at official primary. When a duly elected delegate to a convention does not attend such convention, his place shall be taken by one of the alternates to be substituted in his place, in the order*

*in which the name of such alternate appears upon the certificate, and if no alternates have been elected, or do not appear at such convention, then the delegates present at such convention from such unit of representation shall select a person to fill the vacancy.*

§ 58. Section sixty-two of such chapter is hereby renumbered section one hundred and eleven, inserted as a part of article four-b thereof and amended to read as follows:

§[66] 111. [Conventions;] [a]Apportionment of delegates. [The delegates to every party convention in and for any political subdivision chosen in any city or village to which this article is applicable, shall be apportioned among the units of representation in such city, or village as nearly as possible upon the basis of the number of votes cast therein for the party candidate for governor at the last preceding general election, except that in any county which is not wholly included within the boundaries of a city of the first class, the general committee of the party may, by its rules and regulations, continue any system of representation in conventions existing on the second day of May in the year eighteen hundred and ninety-nine. The general committee of any party may also by its rules and regulations apportion the voting power of the delegates to a convention in accordance with such vote for governor. If the boundaries of any political subdivisions serving as units of representation shall have been changed since the last preceding general election at which a governor was elected, the party vote for governor at such election within the limits of such newly constituted units of representation shall be estimated as closely as possible and the apportionment of delegates shall be made in accordance with such estimate.]

1. *Units of representation in party conventions, and the number of delegates for each such unit, shall be determined by the rules and regulations of the respective parties. Existing units of representation in party conventions, and the number of delegates therefrom, shall continue until changed by rules adopted by the convention of the party desiring such change for its conventions.*

2. *The delegates and alternates to the state convention shall be elected by assembly direct conventions. All delegates and alternates to all other conventions shall be elected at the primaries, excepting delegates to a national convention, who shall be elected as in this chapter provided.*

§ 59. Section sixty-seven of such chapter is hereby renumbered section one hundred and twelve, inserted as a part of article four-b thereof and amended to read as follows:

§ [67] 112. Organization of conventions. The room designated for the meeting place of any convention shall have ample seating capacity, for all the delegates and alternates.

Every convention shall be called to order by the chairman of the committee with whom the call originates or by a person designated in writing for that purpose by such chairman, and such chairman or person so designated shall have the custody of the roll of the convention until it shall have been organized. No convention shall proceed to the election of a temporary chairman or transact any business until the time fixed for the opening thereof has arrived and at least a majority of the delegates or respective alternates named in the official roll shall be present. The roll-call upon the election of temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention, provided a majority of the delegates are present. The temporary chairman of the convention shall be chosen on a call of the roll, and as the name of each delegate is called he shall rise in his place and declare his choice for such office. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and declaring the result thereof. The committees of a convention shall be appointed by the convention, or by the temporary chairman, as the convention may order. Unless the convention shall otherwise order, the permanent chairman shall be chosen on roll-call.

The permanent officers shall keep the records of the convention, and, within forty-eight hours after the adjournment thereof, shall certify and file the same in the office of the *secretary of state* or custodian of primary records. *If the convention shall have nominated a candidate or candidates for public office in the same office where certificates of such nomination are required to be filed. If to elect delegates to another convention one duplicate with the secretary of state and the other with the custodian of primary records for that political subdivision.* [Before entering upon their duties, the temporary and permanent chairman of every conven-

tion, and the chairman and members of any committee on contested seats therein, shall respectively take an oath to faithfully perform the duties of their offices, which oath may be taken before any officer authorized by law to administer an oath, and shall form a part of, and be filed with the records of the convention.】

§ 60. Such chapter is hereby amended by inserting therein as a part of article four-b thereof, a new section, to be section one hundred and thirteen, and to read as follows:

§ 113. *Time of holding state convention; credentials of delegates.* The state convention shall not be held earlier than seven days after the primary election at which the delegates thereto were elected. The delegates thereto certified or adjudicated to have been elected as such in the manner provided in this chapter shall be conclusively entitled to their seats, rights and votes as delegates to such convention.

§ 61. Such chapter is hereby amended by inserting therein, as a part of article four-b thereof, a new section, to be section one hundred and fourteen, and to read as follows:

§ 114. *Voting at state convention.* When the vote of a state convention is taken upon the nomination of candidates for public office or the election of delegates or committeemen, the roll of the delegates shall be called and each delegate when his name is called shall arise in his place and announce his voice, except that the chairman of a delegation may, unless a member of such delegation objects, announce the vote of his delegation.

§ 62. Sections one hundred and twenty-one, one hundred and twenty-two, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-three, one hundred and thirty-five, one hundred and thirty-six, one hundred and thirty-seven and two hundred and ninety-two of such chapter are hereby amended to read, respectively, as follows:

§ 121. *Party certificates of nomination.* The party certificate whereby such party nominations made by a convention are certified shall contain the title of the office for which each person is nominated, the name and residence of each such person, and, if in a city, the street number of the residence of each such candidate and his place of business, if any. It shall also designate, in not

more than five words, the name of the political party which the convention, primary or committee making such nomination represents. It shall be signed by the presiding officer and a secretary of such convention or primary, or, if made by a committee, by a majority of the members thereof, who shall add to their signatures their respective places of residence, and shall make oath before an officer qualified to take affidavits that the affiants were such officers of such convention or primary, or that they are members and constitute a majority of such committee, and that such certificates and the statements therein contained are true to the best of their information and belief. A certificate that such oath has been administered shall be made and signed by the officer before whom the same was taken, and attached to such certificate of nomination. When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention or primary which authorized such committee to make such nomination. A certificate of nomination filed pursuant to this section may upon its face appoint a committee of one or more persons for the purposes specified in section one hundred and thirty-five of this article. *The records in the office of the custodian of primary records or secretary of state showing the nomination of a party candidate for an office at an official primary election shall be equivalent to a certificate of his nomination.*

§ 122. Independent nominations. Nominations made as provided by this and the next section shall be known as independent nominations, and the certificate whereby such nominations are made shall be known as an independent certificate of nomination. Independent nominations of candidates for public office to be voted for by all the voters of the state can only be made by six thousand or more voters of the state; provided, however, that in making up such number at least fifty voters in each county of the state (the counties of Fulton and Hamilton to be considered as one county) shall subscribe the certificate provided for in this and the next section. Independent nominations of candidates for municipal offices to be voted for by all the voters of a municipality can only be made if in a city of the first class by [two] four thousand voters of such city; if in cities of the second class by one thousand five hundred voters of such city; and in other cities



by [five] *eight* hundred voters thereof. Independent nominations of candidates for a county office in a county in which there is a city of the first class can only be made by [two] *four* thousand voters of such county. Independent nominations of candidates for public office other than municipal offices to be voted for in a district less than the whole state, but greater than a town or ward of a city, can only be made by one thousand *five hundred* voters or more of the district, except that [five] *eight* hundred voters or more of an assembly [or school commissioner] district may make such nomination for member of assembly [or school commissioner] to be voted for in such district. Independent nominations of candidates for public office to be voted for only by the voters of a town, or a ward of a city, or a village, can only be made by one hundred voters or more of such town, ward or village, except that when such town, ward or village constitutes an assembly [or school commissioner] district[, five] *eight* hundred or more voters shall be required as above to make such nomination for member of assembly [or school commissioner].

§ 127. Places of filing *certain* certificates of nomination. Certificates of nomination of candidates for office to be filled by the voters of the entire state, or of any division or district *greater* than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county shall be filed in the office of the county clerk of Hamilton county, so long as the said counties constitute one assembly district, and except that certificates of nomination of candidates for offices to be filled only by the voters or a portion of the voters of the city of New York shall be filed with the board of elections of the city of New York.

Certificates of nomination of candidates for offices to be filled only by the votes of voters, part of whom are of New York city and part of whom are of a county not wholly within the city of New York, shall be filed with the [clerk] *board of elections* of such county and in the office of the board of elections of said city. Certificates of nomination of candidates for offices of any other

city, [except the city of Buffalo,] to be elected at the same time at which a general election is held shall be filed with the [clerk] board of elections of the county in which such city is located. Certificates of nomination of candidates for offices [of any other city, except the city of Buffalo, or for officers] of a city, village or town to be elected at a different time from a general election shall be filed with the clerk of such city, village or town, respectively.

In towns in which town meetings are held at the time of general elections, certificates of nomination of candidates for town offices shall be in duplicate, one of which shall be filed with the town clerk of the town in which such officers are to be voted for, and the other with the [clerk] board of elections of the county in which such town is located, except that in the county of Erie all such duplicate certificates of nomination shall be filed, one with the commissioner of elections and one with the clerk of the town in which such officers are to be voted for]. All other certificates of nomination, except in the county of Erie, shall be filed with the clerk of the county in which the candidates so nominated are to be voted for, and in the county of Erie all such certificates, including certificates for the nomination of ward and city officers in the city of Buffalo shall be filed with the commissioner of elections].

All filed certificates and corrected certificates of nomination, all objections to such certificates and all declinations of nomination are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without delay every such paper to any person who shall request to see the same. It shall also be the duty of each officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates issued by or filed in the office of such officer or board or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination, and in which shall also be stated all declinations of nomination or objections to nominations, and the time of filing each of the said papers.

§ 128. Times of filing certificates of nomination. [The] Unless otherwise specifically provided in this chapter, the differ-

ent certificates of nomination shall be filed within the following periods before the election for which the nominations are made, to wit: Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; [if independent nominations, at least twenty-five and not more than forty days;] those required to be filed with the [county clerk, or] *board of elections and in the counties within the city of New York*, the board of elections of the city of New York, [or with the city clerk of any other city, or with the commissioner of elections of Erie county] if party nominations, at least twenty-five and more than thirty-five days; [if independent nominations, at least twenty and not more than thirty-five days;] those required to be filed with a town or village clerk, if party nominations, at least fifteen and not more than twenty days; [if independent nominations, at least ten and not more than twenty days;] except that in towns, [other than in the county of Erie,] where town meetings are held at the time of general elections, certificates of nomination for town officers shall be filed with the town *clerks* and [county clerks] *board of elections* within the time required by this section for the filing of certificates of nomination with the [county clerk, and in the county of Erie such certificates shall be filed with the commissioner of elections and the town clerks not less than twenty nor more than thirty days before the day of election] *board of elections; if independent nominations within five days after party nominations for the same offices are required to be filed, and not earlier than party nominations for the same offices can be filed with the boards of elections.*

In case of a special election ordered by the governor under the provisions of section two hundred and ninety-two of this chapter, the certificates of nomination for the office or offices to be filled at such special election shall be filed with the proper officers or boards not less than [fifteen] *ten* days before such special election.

§ 129. Certification of nominations by secretary of state. The secretary of state shall, fourteen days before the election, *or nine days before a special election*, certify to the [county clerk of each county, except the county of Erie] *board of elections of each county*, [and those counties the whole of which is within the city of New York] and to the board of elections of the city of New York, [and to the commissioner of elections of the county of

Erie,] the name, residence and place of business, if any, of each candidate *either* nominated in any certificate so filed *with him, or to whom he has issued a certificate*, for whom the voters of any such county or said city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

§ 130. Publication of nominations. At least six days before an election to fill any public office the [county clerk] *board of elections* of each county, except those counties which are wholly within the city of New York, [and the county of Erie, and in the county of Erie the commissioner of elections,] shall cause to be published in not less than two nor more than four newspapers within such county, one of which shall be a daily newspaper, if a daily newspaper is published in such county, and in any county having one hundred thousand or more inhabitants, adjoining a city having a population of one million or more, in not less than six nor more than ten newspapers, a list of all nominations of candidates for offices other than town offices to be filled at such election, certified to such [officer] *board* by the secretary of state, or filed [in the office of such officer] *with such board or certified by such board*. The board of elections of the city of New York shall, within the same time before an election to fill any public office, cause to be published in two newspapers published in each borough within such city a list of the nominations of candidates for office to be voted for at such election in such boroughs respectively, which were certified to such board by the secretary of state, or filed in the office of such board, *or certified by such board* and in the borough of Brooklyn the board of elections shall cause such publication to be made in the newspapers designated as corporation newspapers of said borough.

Such publication shall contain the name and residence, and if a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, and a fac simile of the emblems and devices selected and designated as prescribed by this article, to represent and distinguish the candidates of the several political parties or independent bodies.

The city clerk of each city except New York [and Buffalo], and the board of elections of the city of New York, [and in the city of Buffalo the commissioner of elections,] shall at least six days before an election of city officers thereof, held at a different time from a general election, cause like publications to be made as to candidates for offices to be filled at such city election in a like number of newspapers published in such city.

One of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the largest number of votes in the state for such office; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the next largest number of votes in the state for such office. The officer or board, in selecting the papers for such publication, shall select those which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the officer or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties. The officer or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the [county clerk] *board of elections* or other officer find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

§ 131. Lists for town clerks and aldermen. The [county clerk] *board of elections* of each county, except [the county of Erie and] those counties which are wholly within the city of New York, [and in the county of Erie the commissioner of elections,] shall at least six days before election day send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five or more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city, the street number of residence, the place of business, if any, of all candidates whose certificates and nomination have been filed with [him] or issued by it or been certified to

[him] *it*, and the party or other designation, and also a fac simile of the emblem or device of each political party or independent body nominating candidates to be voted for by the voters of the respective towns and wards. Such lists shall at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which lists shall be so posted at each polling place.

§ 133. Declination of nomination. The name of a person nominated for an [y] office *otherwise than by an official primary election*, shall not be printed on the official ballot if he notifies the board or officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination, or if nominated by more than one political party or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a party nomination filed with the secretary of state, such notification shall be given at least twenty-five days, and if an independent nomination at least twenty days, before the election. If the declination be of a party nomination filed with a [county clerk or the] board of elections *of any county and in the counties within the city of New York with the board of elections of the city of New York, or [the commissioner of elections of the county of Erie, or]* with the city clerk of any city, such nomination shall be given at least twenty days, and if of an independent nomination at least eighteen days, before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination at least seven days before the election; except that a declination of nomination to a town office in towns where town meetings are held at the time of general elections, must be filed in the office of the [county clerk, and if in the county of Erie in the office of the commissioner] board of elections, within the time required by this section for filing the declination of nomination to a county office, and the [county clerk or the said commissioner] board of elections shall forthwith notify the town clerk in writing of such declination.

The *board or officer* to whom such notification is given shall forthwith inform by mail or otherwise the committee, if any, appointed on the face of such certificate as permitted by sections one hundred and twenty-one and one hundred and twenty-three of this article, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise that such nomination has been declined, to the several [county clerks] *boards of elections* or other officers authorized by law to prepare official ballots for election districts affected by such declination.

§ 135. Filling vacancies in nominations. If a nomination *made otherwise than by an official primary election* is duly declined, or the attempt to nominate at a primary results in a tie, or a candidate regularly nominated *otherwise than by an official primary election* dies before election day, or is found to be disqualified to hold office for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by section one hundred and twenty-one and one hundred and twenty-three of this article, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy, it shall not be lawful to select a new emblem or device, but the emblem or device chosen to represent or distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated as provided by this section.

§ 136. Certificates of new nominations. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee, and the members of the committee

subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case provided for in section one hundred and thirty-seven, the said certificate shall be filed in the office in which the original certificate was filed, at least six days before election, if filed in the office of a town or village clerk; at least fifteen days before the election, if filed with [the county clerk] *the board of elections of any county* or the board of elections of the city of New York [or the commissioner of elections of the county of Erie] or the city clerk of any city; and at least fifteen days if filed with the secretary of state; and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state, he shall, in certifying the nomination to the various county clerks and other officers, insert the name of the person who has been nominated as prescribed by the previous section, instead of that of the candidate nominated by the original certificate, or, if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officers the name of the person nominated as prescribed by the previous section, and such other facts as are required to be stated in such certificate. [When no nomination shall have been originally made by a political party or by an independent body for an office, or when a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nominations or to fill vacancies, to nominate or substitute the name of a candidate of another party or independent body for such office; it being the intention of this chapter that when a candidate of one party is nominated and placed on the ticket of another party or independent body, such nomination must be made at the time and in the manner provided for making original nominations by such party or independent body.]

§ 137. Death of candidate after printing of ballots; official pasters. In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, *or by whom it was issued, and if*



*filed with the secretary of state, the secretary of state shall immediately give the necessary notifications, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy, and the title of the office for which he was nominated. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type as that used in printing the titles of the offices and the names of the candidates upon the official ballots, and shall be of a size as large as and no larger than the space occupied upon the official ballot by the title of the office and the name of the candidate in whose place the candidate named upon the paster has been nominated. If the candidate be one of a group of candidates, such official paster shall contain the name of the candidate but not the title of the office.*

Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall deliver the pasters to the ballot clerks, who are required to affix one of such pasters in the proper place and in a proper manner upon each official ballot before said ballot shall be delivered to a voter. When so affixed to the official ballot, the pasters shall be **considered as being** part of the official ballot. The ballot clerks shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be inclosed in the package of ballots not delivered to voters.

The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by

imprisonment in a state prison for not less than one nor more than five years.

§ 292. Filling vacancies in elective offices. A vacancy occurring before October fifteenth of any year in any office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term, or upon the occurrence of a vacancy in any elective office which can not be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor may in his discretion make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than [twenty] *thirty* nor more than forty days from the date of the proclamation.

A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

§ 63. Such chapter is hereby amended by inserting in article eighteen thereof a new section, to be known as section four hundred and eighty-nine, to read as follows:

§ 489. *Authority of state superintendent of elections. The authority, powers and jurisdiction of the state superintendent of elections for the metropolitan elections district with respect to general elections, as defined by the provisions of this article, are hereby extended to primary elections, so far as such provisions may be applicable; but no deputy superintendent of elections appointed under section four hundred and seventy-three of this chapter shall attend an official primary election except for the purpose of voting.*

§ 64. Such chapter is hereby amended by adding at the end of article twenty a new section, to be known as section five hundred and sixty-two, to read as follows:

§ 562. *Party funds not to be expended for primary purposes. No contributions of money, or the equivalent thereof, made, directly or indirectly, to any party, or to any party committee or member thereof, or to any person representing or acting on behalf of a party, or any moneys now in the treasury of any party, or party committee, shall be expended in aid of the designation, nomination or election of any person to be voted for at a primary election, either as a candidate for nomination for public office, or for any party position; except that such funds may be used to pay the expenses of holding any meeting of a party committee called to designate a candidate or candidates for nomination for public office in accordance with the provisions of this chapter and for the purpose of printing and distributing any literature regarding such candidates, the postage, clerk hire and necessary expenses incident to informing the voters regarding such candidate, the holding of meetings and other legitimate expenses necessarily incurred in promoting the canvass of such candidate.*

§ 65. Sections three, four, five, six, seven, twenty, twenty-four, thirty-two, thirty-three, thirty-four, thirty-five, forty-five, forty-six, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, sixty-three, sixty-four, sixty-five, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three, one hundred and four and one hundred and twenty of such chapter, are hereby repealed.

§ 66. This act shall take effect November fifteenth, nineteen hundred and eleven.

(No. 34.)

Mr. Murray moved to strike out all that follows after the words "An act to amend the election law in relation to nominations and primaries," and insert thereafter the following by way of amendment to Assembly bill reception No. 651.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The schedule of articles of chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," is hereby amended to read as follows:

- Article 1. Short title; *application; definitions* (§§ 1-3).
2. **[Primaries; general provisions]** *Enrollment of voters* (§§ **[2-7]** 5-25).
  3. **[Enrollments and primaries in cities and in villages having five thousand inhabitants or more]** *Party organization* (§§ **[20-74]** 35-45).
  4. **[Enrollments and primaries in towns]** *Designation of candidates for party nominations* (§§ **[90-104]** 60-72).
  5. **[Nominations]** *Conduct of primary elections; canvass of returns* (§§ **[120-137]** 90-123).
  - 5-a. *Independent nominations* (§§ 134, 135).
  - 5-b. *Filing certificates of nomination; publication* (§§ 136-146).
  6. Registration of voters (§§ 150-184).
  7. Boards of elections in cities of the first class containing one or more counties (§§ 190-201).
  8. Commissioner of elections in the county of Erie (§§ 210-221).
  9. Commissioner of elections in the county of Monroe (§§ 230-242).
  10. Commissioner of elections in the county of Onondaga (§§ 250-260).
  11. Commissioner of elections in the county of Westchester (§§ 270-281).

- Article 12. Time, places, notices, officers and expenses of elections (§§ 290-320).
13. Ballots and stationery (§§ 330-345).
14. Conduct of elections and canvass of votes (§§ 350-381).
15. Voting machines (§§ 390-421).
16. Board of canvassers (§§ 430-444).
17. Representatives in congress and presidential electors (§§ 450-457).
18. Metropolitan elections district (§§ 470-~~488~~489).
19. Soldiers' and sailors' elections (§§ 500-522).
20. Corrupt practices (§§ 540-~~561~~562).
21. Laws repealed; when to take effect (§§ 570, 571).

§ 2. The schedule of sections to article one of the election law is hereby amended to read as follows:

## ARTICLE 1.

### SHORT TITLE; APPLICATION; DEFINITIONS.

#### Section 1. Short title.

#### 2. *Application.*

#### 3. *Definitions.*

§ 3. The election law is hereby amended by inserting in article one thereof two new sections, to be known as sections two and three, and to read as follows:

§ 2. *Application. Except as otherwise herein provided, articles two, three, four, five, five-a and five-b of this chapter shall be controlling:*

1. *On the method of electing members of party committees, and delegates and alternates to national party conventions.*

2. *On the organization and conduct of party committees.*

3. *On the method of enrolling the voters of a party.*

4. *On the nomination of all candidates for offices authorized to be filled at a general election, or at a special election held to fill a vacancy in such office, except town, village and school district officers, and electors of the president and vice-president of the United States.*

§ 3. *The terms used in this chapter shall have the signification herein defined unless other meaning is clearly apparent from the language or context:*

1. *The term "general election" means the election held on the Tuesday next succeeding the first Monday in November.*

2. *The term "enrollment books" means the registration books used for the purpose of registering the voters of each election district as provided for by section five of this chapter.*

3. *The term "official primary" or "official primary election" means a primary election held by a party for the purpose of nominating party candidates for offices described in, and not excepted by, subdivision four of section two of this chapter, or for the election of any member of a party committee constituted as provided in section four of this chapter, or for the election of delegates and alternates to a national party convention. An "unofficial primary" or an "unofficial primary election" means any other primary or primary election held by a party or independent body.*

4. *The term "primary day" means the day upon which an official primary election is held, as in this chapter provided.*

5. *The term "full primary" means the official primary election held in a year when a president and vice-president of the United States are to be elected on the eighth Tuesday before the general election, and in other years the official primary election held on the second Tuesday before the general election.*

6. *The term "spring primary" means the official primary election held on the last Tuesday in March in years when a president of the United States is to be elected.*

7. *The term "unit of representation" means any election district, town, ward of a city, assembly district or any other political subdivision of the state, respectively, which is the unit from which members of any political committee shall be elected as herein provided.*

8. *The term "custodian of primary records" means the officer or board whose duty it is by the provisions of this chapter to provide official ballots for general elections.*

9. *The term "party" means any political organization which at the last preceding election of a governor polled at least ten thousand votes for governor.*

10. *The term "nomination" means the selection in accordance with the provisions of this chapter of a candidate for office authorized to be filled at a general election or at a special election held to fill a vacancy in such office.*

11. *The term "designation" means any method in accordance with the provisions of this chapter by which candidates for party nominations, or for election as party committeemen or delegates, may be named in order that they may be placed upon the official ballot for any official primary election.*

12. *The term "official primary ballot" means the ballot prepared, printed and supplied for use at an official primary election in accordance with the provisions of this chapter.*

13. *The term "party position," means membership in a party committee or the position of delegate or alternate to a party convention.*

14. *The term "committee" means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political subdivision of the state.*

§ 4. The schedule of sections to article two of the election law is hereby amended to read as follows:

## ARTICLE 2.

### **[PRIMARIES; GENERAL PROVISIONS] ENROLLMENT OF VOTERS.**

Section **[2. Definitions of primary and convention.]**

**[3. Notice of primary.]**

**[4. Organization and conduct of primaries.]**

**[5. Qualifications of voters at primaries.]**

**[6. Duties of chairman of primary.]**

**[7. Watchers and canvass of votes at primaries.]**

5. *Registration and enrollment books.*

6. *Voting booths and enrollment boxes.*

7. *Enrollment blanks and envelopes.*

8. *Delivery of enrollment blanks to voters.*

9. *Enrollment by voters.*

10. *Examination, sealing and custody of enrollment boxes.*

11. *Opening of enrollment box and completion of enrollment.*

- Section 12. *Special enrollment where personal registration is not required.*
13. *Special enrollment for annexed territory.*
14. *Special enrollment upon becoming of age.*
15. *Special enrollment after moving where personal registration is not required.*
16. *Special enrollment after moving in other cases.*
17. *Enrollment in the year nineteen hundred and eleven.*
18. *Duplicate enrollment lists.*
19. *Use of enrollment books at official primaries.*
20. *Right to enroll and vote at primaries.*
21. *New enrollment books for changed districts.*
22. *Enrollment books to be public records; transcripts of enrollment.*
23. *Publication of enrollment in cities of one million inhabitants.*
24. *Judicial review of enrollment in cities of one million inhabitants.*
25. *Correction of enrollment in cities of one million inhabitants, with respect to persons not in sympathy with party.*

§ 5. The section of the election law numbered section twenty-two and renumbered section five, as aforesaid, is hereby inserted as a part of article two of said law and is amended to read as follows:

§ [22.] 5. *Registration and enrollment books.* [The custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all voters of the election district may be inscribed therein alphabetically. Said books shall be delivered by the custodian of primary records to the election inspectors of the respective election districts immediately before the day of registration in each year.] *The registration books used for the purpose of registering the voters of such election districts furnished by the secretary of state, as provided by section one hundred and eighty-two of the election*



*law, shall be so arranged and printed that in addition to the columns prescribed for said registration books in sections one hundred and fifty-five and one hundred and fifty-six of the election law, there shall be to the left of the columns therein described eight additional columns as follows: The first column for the number on the ballot voted, in case the elector votes at the third official primary election of the year; the second for a record as to challenges in case he is challenged thereat; above these two columns shall be printed the words "third official primary;" the third and fourth columns for similar entries in case he votes at the second official primary election; above the third and fourth columns shall be printed the words "second official primary." The fifth and sixth columns for similar entries in case he votes at the first official primary election; above the fifth and sixth columns shall be printed the words "first official primary." The seventh column for the name of the party, if any, with which the elector shall enroll. The eighth column for the enrollment numbers of electors. Above these eight columns shall be printed the words "enrollment and primary section."*

§ 6. The section of the election law numbered section twenty-five and renumbered section six, as aforesaid, is hereby inserted as a part of article two thereof and is amended to read as follows:

§ [25.] 6. Voting booths and enrollment boxes. The custodian of primary records shall cause at least two voting booths of the same kind and description as voting booths used at general elections, to be erected in each place of registration *where personal registration is required*, before the first day of registration in each year, and such booths shall be and remain in said places of registration during the registration at the four regular meetings for registration during that year; and it shall be the duty of the custodian of primary records to furnish in each voting booth so erected the same articles as are required by law to be placed therein for a general election, which articles shall remain therein during such registration. He shall also provide in like manner one enrollment box in each place of registration of sufficient capacity to hold all the enrollment blanks and envelopes which are to be furnished for such place of registration, which shall be similar to the ballot boxes prescribed by law to be used at a

general election. *He shall also in like manner provide at each polling place on general election day, in election districts in which personal registration is not required, two such voting booths, for the enrollment of voters, the needed articles therefor, and an enrollment box, as above provided.*

§ 7. The section of the election law numbered section twenty-six and renumbered section seven, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [26] 7. Enrollment blanks and envelopes. There shall also be prepared and distributed by the custodian of primary records in the manner and at public expense as provided in this chapter for the furnishing of official ballots, such a number of enrollment blanks and envelopes for each election district [to the primary elections of which this article is applicable], as will exceed by two hundred the total number of voters registered in such district at the last preceding general election. The enrollment blanks shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks to be filled in in type so far as possible:

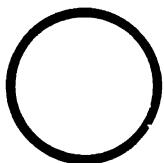
"Primary enrollment for the year .....; city (or village or town) of .....; county of .....; ..... assembly district (or ward); ..... election district; enrollment number .....; name of voter .....

"I, ....., who have placed a mark underneath the party emblem hereunder of my choice, do solemnly declare that I have this day registered as a voter for the next ensuing election, (*or, in election districts in which personal registration is not required, that I have this day voted in the above election district*) and that I am a qualified voter of the election district in which I have so registered (or voted) and that my residence address is as stated by me at the time I so registered (*or, in election districts in which personal registration is not required, a statement of the voter's present address*); that I am in general sympathy with the principles of the party which I have designated by my mark hereunder; that it is my intention to support generally at the next general election, state or national, the

nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last [year] *January*. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor.

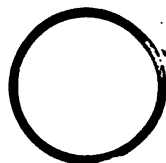
.....Party.

(Insert emblem.)



.....Party.

(Insert emblem.)



"Make a cross X mark, with a pencil having black lead, in the circle under the emblem of the party with which you wish to enroll, for the purpose of participating in its primary elections during the next year."

The circles underneath the emblems shall be one inch in diameter, and in them nothing shall be printed. The party emblems shall be the same as those which were on the ballots for each party, respectively, at the last preceding general election, and such emblems shall be so arranged on each blank that the emblem of the majority party at the last preceding general election of a governor shall be first, and the other emblems shall follow in order in accordance with the vote cast for such office at such election; over each emblem shall be printed, in type clearly legible, the name of the party represented by such emblem. The enrollment blanks shall have thereupon only the emblems of those parties to which this article is applicable and shall be distributed inclosed within the enrollment envelopes having corresponding enrollment numbers. The enrollment envelopes shall be of such size as to permit inclosure therein, without folding, of the enrollment blank, and of such weight and texture of paper as to make it impossible to read or decipher the printed matter on the blank when the same is sealed on the inside thereof. Nothing shall be printed or written upon the enrollment envelopes, except the following words, or the substance thereof, blanks to be filled in in type as far as possible:

"Primary enrollment for year .....; city (or village) of .....; county of .....; ..... assembly district (or ward); ..... election district."

§ 8. The section of the election law numbered section twenty-seven and renumbered section eight, as aforesaid, is hereby inserted as a part of article two thereof and is amended to read as follows:

§ [27] 8. Delivery of enrollment blanks to voters. 1. *Where personal registration is required.* When in any city or village [to which this article is applicable] *in which personal registration is required*, a voter shall, at any of the four regular meetings for registration in any year, present himself to the board of election inspectors in any election district[, his name and residence address shall be entered at the proper place in the two original enrollment books for that district] *and* after he shall have been registered as a qualified voter of that election district for the next ensuing general election, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the place of registration, enter his [registration] *enrollment* number, beginning with number one for the first voter registered on the first day, and so on in numerical order, opposite his name, in the [first] *eighth* column of the registration [books and the enrollment] books, and shall write the name of the voter on the blank having the number which shall be opposite his name on the registration books, and shall fill the other blank spaces on the enrollment envelope and blank, and shall deliver to such voter the enrollment envelope and blank having his name on it. No voter shall be given more than two sets of enrollment blanks and envelopes in any event, nor more than one set unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him, the member of the board of election inspectors in charge of the enrollment books shall draw a line through such voter's enrollment number in the [first] *eighth* column in said [books, and of the] registration books, and shall insert in such space in said columns the number which shall be upon the new set to be given him, which number shall always be the lowest number of enrollment blanks and envelopes then unused in such [booth] *election district. If an election district comprises*

territory partly within and partly outside of a village in which personal registration is required the procedure specified in this section shall be followed only in respect to voters residing in such village, and at the close of the enrollment the unused blanks and envelopes shall be sealed and delivered to the custodian of primary records at the time of the delivery of the books and records.

2. Where personal registration is not required. When, in any town or village in which personal registration is not required, or in an election district a part of which comprises territory in which personal registration is not required, a voter who was not required to register personally shall present himself to the board of election inspectors in any election district for the purpose of receiving an official ballot to be voted thereat, his name and residence shall be entered at the proper place in the original registration and enrollment books for that district. After he shall have voted, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the polling place write his name on the enrollment blank and envelope having the lowest number of the blanks then unused in such election district, shall fill in the other blank spaces on such enrollment blank and envelope, deliver to him the enrollment envelope and the blank having his name on it, and enter opposite his name in the enrollment books the number on the blank delivered to him. No voter shall be given more than two sets of blanks and envelopes in any event, nor more than one set, unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him the member of the board of election inspectors in charge of the enrollment book shall draw a line through such voter's enrollment number in the first column in said books, and shall insert in such space in such column the number which shall be upon the new set to be given him, which number shall also be the lowest number on the enrollment blanks then unused in such election district. Enrollment blanks shall be numbered consecutively, from one upwards, except that in districts where the enrollment as to part of the voters occurred, as provided in the preceding section, on registration days the first number shall be the one succeeding the last number used at such prior enrollment.

§ 9. The section of the election law numbered section twenty-eight and renumbered section nine, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [28] 9. Enrollment by voters. Such voter desiring to enroll shall then enter a voting booth in said place of registration or polling place, and, after having closed the door thereof, may make a cross X mark with a pencil having black lead in the circle underneath the emblem of the party of his selection and thereupon inclose said enrollment blank in said envelope and seal the same, and, before leaving the place of registration or polling place, shall forthwith deposit the same in the enrollment box in said place of registration or polling place in the presence of the inspectors of election, without in any way indicating the party with which he has or has not enrolled [and the inspectors shall thereupon enter in the enrollment books in the fifth column thereof the word "yes"]. If a voter declines to enroll, he may return the blank and envelope to the inspector in charge of the enrollment box, and such inspector shall seal said envelope with the blank therein, indorse the name of such voter thereon and deposit the same in the enrollment box. [; and a like entry shall be made opposite his name in the fifth column of the enrollment books. The entries in the enrollment books required by this and the preceding section shall be made by a member of the board designated by the chairman.] One mark crossing another mark at any angle within the circle shall be deemed a cross mark within the meaning of this article.

§ 10. The section of the election law numbered section twenty-nine and renumbered section ten, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [29] 10. Examination, sealing and custody of enrollment boxes. Before any voter shall be registered in any year, the said enrollment box shall be examined by the board of election inspectors and when empty shall be locked and sealed by them in such a manner that should it be opened such seal would be broken; and the same shall remain locked and sealed until the same shall be opened by the custodian of primary records [after the next ensuing general election] as hereinafter provided. Said boxes shall be in the charge and keeping of the custodian of primary records

at all times except during [the] hours of [registration as prescribed by law] *enrollment*.

§ 11. The section of the election law numbered section thirty-one and renumbered section eleven, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [31] 11. Opening of enrollment box and completion of enrollment. It shall be the duty of the board of primary inspectors, or one of them, [after the final meeting for registration in each year, and] at the same time that he delivers the registration books, to deliver the enrollment box to the custodian of primary records. All enrollment envelopes contained therein shall remain in such box, and the said box shall not be opened nor shall any of the envelopes be opened or removed therefrom until the Tuesday following the [next succeeding] day of general election *in that year*. Such box shall then be opened by the custodian of primary records, and the envelopes contained therein shall be removed therefrom and opened by said custodian, and the name of the party designated by each voter under such declaration shall be by said custodian entered against the name of such voter in the [sixth] *seventh* column of the [enrollment] *registration* books for the election district in which such voter resides. Such enrollment shall be completed before the succeeding fifteenth day of February in each year. If cross marks are found in more than one of the circles, or if no cross marks are found in any of the circles, on any enrollment blank, the voter who used the enrollment blank thus deficient shall not be deemed to be enrolled, and words indicating the reason why such enrollment is not transcribed shall be entered in said [sixth] *seventh* column of the [enrollment] *registration* books against the name of such voter. When all of the enrollments shall be transcribed from the blanks to the enrollment books, the custodian of primary records shall subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original [enrollment] *registration* books, which declaration shall be to the effect that he has correctly and properly transcribed the enrollment indicated on the blank of each voter to the [enrollment] *registration* books, as herein provided.

§ 12. The section of the election law numbered section thirty-two and renumbered section twelve, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [32] 12. Special enrollment *where personal registration is not required.* At any time during the months of May and June, and also in the month of February of any year in which a president of the United States is to be elected, any voter who was registered as a voter *in an election district where personal registration is not required* [at one of said four meetings for registration] in the preceding year, but who did not [then] enroll with any party *on the day of the general election*, may, [except in cities of the first and second class and cities of the third class to which this article is made applicable pursuant to section seventy-three,] become specially enrolled in and have his name added to the original enrollment books of any party in the election district in which he then resides and still resides, in the manner following:

He shall make, and acknowledge before an inspector of election in the election district in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and file or cause to be filed with the custodian of primary records a statement embodying a declaration in the following form:

"I (naming the voter), do solemnly declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district or ward in the [city]; town (or village) of (naming it); that [at one of the last four preceding days of registration] I was registered as a voter in the said election district, but did not enroll *on the day of the general election*, and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor."



Upon the filing of such statement, the custodian of primary records shall enroll such voter in the original *registration and enrollment* books for the proper election district and shall record, in the proper columns thereof, the name and residence address of such voter, the election district in which he is registered as a voter, the name of the party designated in such statement, [the number opposite his name on the registration book,] the fact that the voter is specially enrolled, and the date of such special enrollment.

§ 13. The section of the election law numbered section thirty-three and renumbered section thirteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [33] 13. Special enrollment for annexed territory. If subsequent to any general election and prior to the first day of July next ensuing, territory [to which this article is not applicable] *in which personal registration is not required* shall have become incorporated with a city or village [to which it shall then be applicable], *in which personal registration is required*, any voter residing in such annexed territory may become enrolled in and have his name added to the original enrollment books of any party for the election district in which he resides, at the time and in the manner [provided in section thirty-two of this article. Nothing in this and the last section contained, giving the right to specially enroll as a member of a party, shall apply to cities of the first and second class and cities of the third class to which this article is made applicable pursuant to section seventy-three, and in such cities no voter shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration, as provided in section twenty-seven and section twenty-eight of this article, or in cities containing a population of more than three hundred thousand and less than a million and in cities of the third class to which this article is made applicable pursuant to section seventy-three as provided in section thirty-four and section thirty-five of this article.] *following:*

*He shall make, subscribe and acknowledge before an inspector of election in the election district in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and file or cause to be filed with the custo-*

dian of primary records a statement embodying a declaration in the following form:

I (naming the voter), do solemnly declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district (or ward) in the city (or village) of (naming it); that at the last general election I was entitled to vote in said election district, and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next election, state or national, the nominees of such party for state or national offices and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor."

Upon the filing of such statement, the custodian of primary records shall enroll such voter in the original enrollment books for the proper election district and shall record, in the proper columns thereof, the name and residence address of such voter, the election district in which he is registered as a voter, the name of the party designated in such statement, the number opposite his name on the registration book, the fact that the voter is specially enrolled, and the date of such special enrollment.

§ 14. The section of the election law numbered section thirty-four and renumbered section fourteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [34] 14. Special enrollment upon becoming of age. Except in cities containing a population of not less than fifty thousand and not more than three hundred thousand, and cities containing a population of one million or over, a voter who shall have become of age after the last preceding general election may at any time other than during the thirty days next preceding an official primary day, become specially enrolled in and have his name added to the original enrollment books of any party in the election district in which he resides, in the manner following:

He shall make, and acknowledge before one of the officers authorized by sections [thirty-two] *twelve and thirteen* to take *such* acknowledgments, and file or cause to be filed with the custodian of primary records, a statement embodying the declaration contained in [that] *those* sections, except that instead of the words indicating that the voter was [registered at one of the last four preceding days of registration but did not enroll] *entitled to vote at the last preceding general election*, words indicating that he has become of age since the last preceding general election shall be used.

Upon the filing of such statement, the custodian of primary records shall enroll such voter in the original enrollment books for the proper election district, and shall record in the proper columns thereof the name and residence address of such voter, the fact that he has become specially enrolled, the date of such special enrollment, and the fact that he has become of age since the last preceding general election. Nothing in this section contained giving to voters who shall have become of age after the last preceding general election the right to specially enroll, shall apply to cities containing a population of not less than fifty thousand and not more than three hundred thousand, or cities containing a population of one million or over, and in such cities no voter shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration [as provided in section twenty-seven and section twenty-eight of this article].

§ 15. The section of the election law numbered section ninety-six and renumbered section fifteen, as aforesaid, is hereby inserted as a part of article two thereof and amended to read as follows:

§ [96] 15. Special enrollment after moving, *where personal registration is not required*. If after being enrolled, *where personal registration is not required*, as a member of a party in one election district, either by original enrollment or by transfer, a voter shall move into another election district *where personal registration is not required* in said county, he may at any time between the first days of January of any year and the thirtieth day before any primary [election day], become enrolled therein as a member of the same party, by making, acknowledging and filing or causing to be filed with the [county clerk] *custodian*

of primary records a statement specifying the name of the party with which, and the election district in which, he is enrolled, and the election district into which he has removed, and stating that he resides in the last mentioned election district and desires to be enrolled therein as a member of such party. Upon the filing of such statement, the said [county clerk] *custodian* shall enroll the name of such voter in the enrollment [list] books filed with him for the proper election district, specifying the district from which he is transferred, and shall also make a minute, opposite the entry of his name, in the enrollment [list] books filed with him of the election district from which he has removed, showing the election district to which his name is transferred.

§ 16. The section of the election law numbered section thirty-five and renumbered section sixteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [35] 16. Special enrollment after moving, *in other cases*. If, after being enrolled as a member of a party in one election district, either by original enrollment or by transfer, a voter shall move into another election district in the same city or village in which personal registration is required, he may, except in cities containing a population of not less than fifty thousand and not more than three hundred thousand, and cities containing a population of one million or over and cities of the second class, at any time between the first day of February of any year and the thirtieth day before [the annual] primary day, except during the thirty days before the [official] spring primary [day in March] as herein provided, become enrolled therein as a member of the same party by making, acknowledging before one of the officers authorized by sections [thirty-two] *twelve and thirteen* to take such acknowledgments, and filing, or causing to be filed, with the custodian of primary records, a statement specifying the name of the party with which, and the election district in which he is enrolled, and the election district into which he has moved, and stating that he resides in the last mentioned election district, and desires to be enrolled therein as a member of such party. Upon the filing of such statement the custodian of primary records shall

enroll the name of such voter in the original enrollment books for the proper election district, specifying the district from which he is transferred, and shall also make a minute, opposite the entry of his name in the original books of the election district to which his name is transferred. Nothing in this [subdivision] section contained giving the right of transfer, as herein stated shall apply to cities containing a population of not less than fifty thousand and not more than three hundred thousand, or cities containing a population of one million or over, and in such cities no voter shall be permitted to take part in any primary election of any party other than the party with which and in the election district in which he enrolled at one of the four regular meetings for registration [as provided in section twenty-seven and section twenty-eight of this article].

§ 17. The election law is hereby amended by inserting therein a new section, to be known as section seventeen, and to read as follows:

§ 17. *Enrollment in the year nineteen hundred and twelve. In each election district of the state where no enrollment of the members of political parties was required to be made in accordance with the provisions of the election law in the year nineteen hundred and ten, the boards of primary inspectors shall meet in their election districts respectively from twelve o'clock noon until nine o'clock in the evening on the seventeenth day of July, nineteen hundred and twelve, and the twentieth day of July, nineteen hundred and twelve, for the purpose of making such enrollment. The members of said boards shall receive the same compensation as for a day of registration, and such compensation shall be paid to them by the same officials and in the same manner as for a day of registration. Such boards of primary inspectors at such meetings shall make an enrollment of party voters in the manner herein prescribed. In the election districts where there has been no party enrollment they shall place upon the appropriate enrollment lists the names of all voters whose party affiliation is known to them or may be made known to them, in the manner prescribed in this chapter, either by the voter in person or by an enrolled voter of the same party residing within the district. When the name of a party voter has been placed upon an enrollment list it*

shall not be placed upon any other enrollment list. At the conclusion of such enrollment on the twentieth day of July the said boards of election inspectors shall cause to be mailed to their several post-office addresses enrollment blanks to all voters whose names appear upon the registration books, but not upon the enrollment lists. Such blanks shall be printed and shall be in substantially the same form as the blanks prescribed in this chapter for the enrollment of voters on days of registration in election districts where personal registration is required. And across the top thereof shall also be printed the following instruction: "Fill out and return on or before the twenty-fourth day of July, nineteen hundred and twelve, to . . . . ., chairman board of primary inspectors, town of . . . . ., or . . . . . election district, . . . . . (here insert the number of the assembly district or ward or the name of the town or village, if any) at . . . . . (here insert the post-office address, with street and number, if any, of chairman of the board of primary inspectors)." The names of enrolled voters contained in such blanks as shall be mailed on or before the twenty-fourth day of July, nineteen hundred and eleven, and received by the chairman of the board of primary inspectors, shall be added to the respective lists. The names of party voters thus enrolled shall be arranged alphabetically upon the enrollment lists of their parties respectively, and such enrollment lists on and after the first day of August, nineteen hundred and twelve, shall become the enrollment lists for the primary elections to be held in the year nineteen hundred and eleven, and shall be subject to the provisions of this chapter applying to enrollment lists of party voters. The enrollment books and blanks for the enrollment of party voters, required by this chapter to be printed by the custodian of primary records, shall be furnished in the year nineteen hundred and eleven on or before the tenth day of July of said year.

§ 18. The section of the election law numbered section thirty-six and renumbered section eighteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [36] 18. Duplicate enrollment [books] lists. The custodian of primary records shall annually provide a true copy [of

the enrollment books], duly certified, for each party to which this article shall then be applicable, [provided that in cities containing a population of one million or over and in cities containing a population of not less than fifty thousand and not more than three hundred thousand such copies shall be only] of so much of the said registration and enrollment books as will give their names, addresses and political affiliation of each voter, and the certificate attached to each said copy, shall be qualified to meet the requirements of this proviso. The said custodian shall, in the month of February of each year, deliver one such certified copy to the chairman of the proper [general] county committee of each such party. Such certified copies shall conform in all respects to the form of the *enrollment and primary section of the original registration and enrollment books*, or to the portion transcribed, as the case may be, and all entries in such original enrollment books, completed to February fifteenth when such books are prepared for election districts [outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over,] shall be transferred thereto. The custodian of primary records shall, whenever requested so to do by the chairman of the proper [general] county committee of any party to which this article is applicable and upon the delivery to him of that party's certified copy of the enrollment books for any election district, [of a city or village] other than *in a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over* make such additions thereto and changes therein as may be necessary to cause the same to conform to the original enrollment books of that election district, completed to the fifteenth day of the month during which such request is made, and shall, as promptly as possible, return the same to such chairman or his duly authorized representative, accompanied by a supplemental certificate showing that each such copy is a correct copy of the original as of such date. The custodian of primary records within a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over shall certify to such chairman that each such copy is a correct transcript of the orig-

inal enrollment book, made during the four days of registration of voters for the preceding general election. *The custodian of primary records, except in a county wholly within a city, shall annually, upon the completion of the entry of the enrollment upon the registration enrollment books, prepare for each town within his jurisdiction a true copy of so much of a registration and enrollment book as gives the names, addresses and political affiliations of such voter in such town. Such copy shall be duly certified and transmitted to the town clerk of such town on or before the twentieth day of February. The custodian of primary records shall also on the first day of each month thereafter prior to the first day of October transmit to the town clerk of each town within his jurisdiction a certified statement of all supplemental enrollments of voters in such town during the preceding month. Such certified copy and each such certified statement shall be filed by the town clerk in his office, and shall be open to public inspection at all reasonable hours.*

§ 19. The section of the election law numbered section thirty-eight and renumbered section nineteen, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [38] 19. Use of original *registration and enrollment books* at official primaries. The original enrollment books shall be used at all official primary elections, and shall be delivered by the custodian of primary records to the proper boards of election inspectors immediately before the opening of the polls on each official primary day, and shall be returned to such custodian forthwith, after the completion of the canvass of the votes. [Such] *The enrollment [books] shall go into effect on the [first] sixteenth day of [January] February following the day[s of registration] on which [they] the original registration books are required to be delivered to the custodian of primary records [begun] and [shall] such enrollment with any additions or changes made as herein provided, remain in force until the [first] sixteenth day of the following [January] February, when [they] it shall be superseded by the new enrollment [books] as herein provided.*

§ 20. The section of the election law numbered section thirty-nine and renumbered section twenty, as aforesaid, is hereby in-



serted as a part of article two thereof, and is amended to read as follows:

§ [39] 20. Right to enroll and vote at primaries. No voter who has once enrolled in a political party shall be permitted to enroll in another political party before the first of the next four days of registration. [Except as otherwise expressly provided in this article,] Only voters enrolled as [herein] provided in this article shall be entitled to participate in the official primary elections of their respective parties. [No voter who has registered in the preceding year shall be allowed to enroll in any election district other than that in which he was so registered, unless the custodian of primary records shall find that he was so registered in such other election district. No voter shall take part in any primary election of any party other than the party in which he shall at the time be enrolled.]

§ 21. The section of the election law numbered section forty and renumbered section twenty-one, as aforesaid, is hereby inserted in article two thereof, and is amended to read as follows:

§ [40] 21. New enrollment books for changed districts. In case, in the interval between the day[s of registration] of general election and an official primary day in the succeeding year, a new election district shall be created, or the boundaries of an election district, or the number of any ward or assembly district, shall be changed, the custodian of primary records shall, at least thirty days prior to such official primary day, prepare [two] new registration and enrollment books for such district, or properly renumbered the registration and enrollment books for such ward or assembly district, which registration and enrollment books shall be in the same form and exhibit the same facts as the registration and enrollment books then in force in the territory comprised within such new or changed district, or renumbered ward or assembly district, but shall contain only the names of all the voters, who as shown by the registration and enrollment books then in force in such territory are the enrolled voters of the respective political parties resident within such new or changed election district, or renumbered ward or assembly district. And in that event such new registration and enrollment books shall supersede the registration and enrollment books then in force in such territory, and the custodian of primary records shall be charged with the

same duties concerning the same and any duplicate sets thereof or transcripts therefrom as are herein provided for with respect to the *original registration and enrollment* books. [begun on the day of registration.]

§ 22. The section of the election law numbered section forty-one and renumbered section twenty-two, as aforesaid, is hereby inserted in article two thereof, and is amended to read as follows:

§ [41] 22. *Registration and enrollment* books to be public records; transcripts of enrollment. The *registration and enrollment* books herein provided for and any declarations filed on enrollment shall be public records, and shall be open to inspection and copying at any time by any person, except for the period during which they are required to remain sealed as herein provided. It shall be the duty of the custodian of primary records to certify to the correctness of any transcript of such *registration and enrollment* books, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript. Wherever the custodian of primary records is a salaried officer, the fees received by him for certifying such transcripts shall be paid into the public treasury. Such a certified transcript containing the name and showing the enrollment of any voter, shall be sufficient evidence of such enrollment. The custodian of primary records shall give to any voter enrolled or transferred as in this article provided, a certificate of enrollment or of transfer, which shall specify the name of the party with which he is enrolled, the date of enrollment or transfer, and the election district in which such voter is enrolled. The declarations and enrollment blanks filed by voters [at the time of registration or in the special enrollment] shall be public records and shall be kept on file until one year thereafter. No person shall be required to enroll, nor shall his failure to do so affect his right to register for the purpose of voting at any election.

§ 23. The section of the election law numbered section forty-two and renumbered section twenty-three, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ [42] 23. Publication of enrollment in *certain cities* [of one million inhabitants]. In a city containing a population of

one million or over, *and in cities containing a population of not less than fifty thousand and not more than three hundred thousand*, the public officer or board at the time charged with the duty of publishing the registration lists of voters in such city shall, between the fifteenth day of December and the **[first]** *fifteenth* day of **[January]** *February*, cause to be published in like manner and at public expense a transcript of the *registration and enrollment* books of each election district in such city, omitting all entries except the names, the residence addresses, and the party, if any, recorded opposite the respective names. The custodian of primary records shall provide such transcript for publication.

§ 24. The section of the election law numbered section forty-three and renumbered section twenty-four, as aforesaid, is hereby inserted as a part of article two thereof, and is amended to read as follows:

§ **[43]** 24. Judicial review of enrollment in cities of one million inhabitants. This section shall apply only to cities containing a population of one million or over. If any statement in the declaration of any person, on the evidence of which his name was enrolled in the original enrollment book for any election district by the custodian of primary records, or if any entry opposite the name of any person in such enrollment book is false, or if any person enrolled in such enrollment book has died, or has removed from or no longer resides in such election district, any voter of the assembly district in which such election district is located **[provided such voter is himself duly enrolled with the same political party with which the person, as to whom the application is made, was enrolled]** may present proof thereof by affidavit to the supreme court, or to any justice thereof, in the judicial district, or to a county judge of the county, in which such election district is located. And thereupon such court, justice or judge shall make an order requiring the person against or as to whom the proceeding is instituted, unless he is shown to have died, as hereinafter provided, to show cause before such court, justice or judge at a time and place specified in such order, why his name should not be stricken from such enrollment book. Such order shall be returnable on a day at least ten days before a primary election, and a copy thereof shall be served on the person against whom

the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof, either personally or by depositing the same in the postoffice of the city in which such election district is located, in a postpaid wrapper or envelope addressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment book for such election district. If the person as to whose name the application is made is claimed to be dead, the order to show cause hereinabove provided for shall be directed to the custodian of primary records, and service thereof need only be made upon such custodian of primary records, such service to be made in the manner heretofore in this section specified; but an order requiring the custodian of primary records to show cause why the name of a person claimed to be dead should not be stricken from the enrollment book shall not be made unless the affidavit presented to the court, justice or judge by the voter instituting the proceeding shall state that such voter has personal knowledge of the death of the person with respect to whose name the application is made and unless such affidavit is substantiated either by a certificate of the health department or by other competent evidence of such death. The custodian of primary records shall produce before the court, justice or judge, the original enrollment declaration subscribed by the person against or as to whom the proceeding is instituted. The court, justice or judge shall hear the person interested, and if it appears by sufficient evidence that any statement in the declaration of the person against whom the proceeding is instituted, on the evidence of which he was enrolled by the custodian of primary records, or any statement opposite his name in the original enrollment book, is false, or that such person is dead or has removed from or no longer resides in the election district for which he is enrolled, shall order the name of such person stricken from the enrollment book, except as hereinafter provided. If at such hearing the person against whom the proceeding is instituted shall produce evidence that the custodian of primary records has incorrectly copied into the enrollment book the date contained in the declaration of such person, and that if correctly copied such person would be entitled to be enrolled in such

election district, such order, instead of requiring his name to be stricken from the enrollment book, shall require the correction of the enrollment book in accordance with such evidence. In either case the order shall require the custodian of primary records to strike such name from the enrollment book, or to otherwise correct such enrollment book in accordance with such order. Upon the correction of such enrollment book in accordance with such order, the custodian of primary records shall certify such correction to the chairman of the [general] county committee of each party to whom a duplicate set of enrollment [books] lists has been delivered in pursuance of section [thirty-six] eighteen of this [article] chapter.

§ 25. The section of the election law numbered section forty-four and renumbered section twenty-five, as aforesaid is hereby inserted in article two thereof, and is amended to read as follows:

§ [44] 25. Correction of enrollment in cities of one million inhabitants with respect to persons not in sympathy with party. This section shall apply only to cities containing a population of one million or over. If any person is not in sympathy with the principles of the political party with which such person is enrolled, any voter of the assembly district in which such election district is located [provided such voter is himself duly enrolled with the same political party with which the person as to whom the application is made was enrolled] may present proof thereof by affidavit to the chairman of the county [general] committee of the political party with which the voter enrolled, and the chairman of such county [general] committee shall issue a notice requiring the person against or as to whom the proceeding is instituted to show cause before such chairman of the county [general] committee, or a subcommittee appointed by such chairman, at a time and place specified in such notice why his name should not be stricken from such enrollment book. Such notice shall be returnable on a day at least fifteen days before a primary election, and a copy of the affidavit shall be served on the person against whom the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof, either personally or by depositing the same in the post-office of the city in which such election district is located, in a postpaid wrapper or envelope ad-

dressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment book for such election district. The chairman of such committee shall in his discretion personally hear the persons interested in the proceeding or appoint a subcommittee to take testimony, and in such event the action of the subcommittee shall not be final unless approved of by the chairman of such county [general] committee, and if it appears by sufficient evidence that such person is not in sympathy with the principles of the political party with which such person enrolled, the chairman of the county [general] committee shall cause to be filed a certificate with the board of elections or with the custodian of primary records setting forth reasons why the name of such person shall be stricken from the enrollment book, together with a record of the proceedings had in the matter. It shall be the duty of the board of elections or the custodian of primary records to make application to the supreme court or any justice thereof in the judicial district, or to a county judge of the county, in which such election district is located, for an order requiring the person against or as to whom the proceeding is instituted to show cause before such court, justice or judge, at a time and place specified in such order, why the decision of the chairman of such county [general] committee should not be confirmed. Such order shall be returnable on a day at least five days before a primary election, and a copy thereof shall be served on the person against whom the proceeding is instituted at least forty-eight hours before the return thereof in the manner hereinbefore provided. *The said court, justice or judge shall have power to examine fully into the proceedings taken before such chairman or subcommittee and to receive affidavits or other evidence as to the manner in which such proceedings were conducted and shall determine whether or not said proceeding was fairly conducted and the finding made therein was made upon sufficient grounds upon the merits, and he may approve or disapprove such finding as shall seem to him to be required to do substantial justice to the party against whom the proceeding was instituted and without regard to technical requirements.* The court, justice or judge upon approving of the finding of the chairman of such county [general] committee shall issue

an order to the board of elections or to the custodian of primary records requiring the name of the voter to be stricken from the enrollment book.

§ 26. The schedule of sections to article three of the election law is hereby amended to read as follows:

### ARTICLE 3.

**[ENROLLMENTS AND PRIMARIES IN CITIES AND IN VILLAGES HAVING FIVE THOUSAND INHABITANTS OR MORE]** PARTY ORGANIZATION.

Section **[20.** Application of article.

21. Definitions and construction.
22. Enrollment books.
23. Enrollment books except in cities of one million inhabitants and of second class.
24. Enrollment books in cities of one million inhabitants and of second class.
25. Voting booths and enrollment boxes.
26. Enrollment blanks and envelopes.
27. Delivery of enrollment blanks to voters.
28. Enrollment by voters.
29. Examination, sealing and custody of enrollment boxes.
30. Certification and secrecy of enrollment.
31. Opening of enrollment box and completion of enrollment.
32. Special enrollment.
33. Special enrollment for annexed territory.
34. Special enrollment upon becoming of age.
35. Special enrollment after moving.
36. Duplicate enrollment books.
37. Use of duplicate enrollment books at unofficial primaries.
38. Use of original enrollment books at official primaries.
39. Right to enroll and vote at primaries.
40. New enrollment books for changed districts.
41. Enrollment books to be public records; transcripts of enrollment.

- Section 42. Publication of enrollment in cities of one million inhabitants.
43. Judicial review of enrollment in cities of one million inhabitants.
44. Correction of enrollment in cities of one million inhabitants, with respect to persons not in sympathy with party.
45. Times and purposes of official primaries.
46. Congressional primaries, and additional primaries in presidential years.
47. Expense of official primaries.
48. Primary districts and polling places.
49. Notice of primaries; hours of voting.
50. Unofficial primaries.
51. Restrictions as to place of primaries.
52. Primary election officers.
53. Appointment and removal of primary election officers.
54. Chairman; compensation of inspectors; oath.
55. Ballots, booth and supplies.
56. Voting at official primary elections.
57. Challenges at official primary elections.
58. Persons within guard-rail.
59. Watchers; challengers; electioneering.
60. Canvass of votes.
61. Proclamation and statement of result.
62. Certificates of election; preservation of ballots.
63. Canvass of statements of result.
64. Committees, and rules and regulations of parties.
65. Organization of committees and adoption of rules.
66. Conventions; apportionment of delegates.
67. Organization of conventions.
68. Contested seats.
69. Substitution of delegates; date of convention.
70. Jurisdiction of, and review by, the courts.
71. Direct nomination of candidates at primary elections.
72. Application of this article to political parties.



Section 73. Application of this article to cities of the third class and villages.

74. Perjury.]

35. *Party committees.*

36. *Terms of office.*

37. *Party rules and regulations.*

38. *Vacancies.*

39. *Meetings of committees.*

40. *Quorum.*

41. *Designation of candidates for party committeemen.*

42. *Party council.*

43. *Emblems.*

44. *Conflict in names or emblems.*

45. *Supplying omitted emblems.*

§ 27. The election law is hereby amended by inserting in article three thereof eight new sections, to be known as sections thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one and forty-two, and to read as follows:

§ 35. *Party committees.* The organization of parties shall consist of the following committees:

1. *State committee.* The state committee of said party shall be constituted by the election from each assembly district of one member who shall be an enrolled voter of the party within said district. Each member of the state committee shall be entitled to one vote for his unit of representation, and to one additional vote for each one thousand votes or major fraction thereof cast **within said unit of representation** for the candidate of his party for governor at the preceding general election.

2. *County committee.* (a) The county committee of said party, in each county in which a total of two hundred thousand or more votes was cast for governor in the proceeding election, shall be constituted by the election from each election district within said county of one member who shall be an enrolled voter of the party residing in said county.

In any such county the executive committee of the party shall be constituted by the election of one member thereof from each assembly district within said county who shall be an enrolled

voter of the party in said assembly district. Each member of said executive committee shall be entitled to as many votes in said executive committee as the members of the county committee, exclusive of said executive committeeman, elected within said assembly district are entitled to cast in the county committee. The members of said executive committee shall also be members of the county committee and shall each be entitled to one vote in the county committee, and shall have such powers and perform such duties as the rules of the county committee may prescribe, not inconsistent with the provisions of this chapter.

(b) In every other county the county committee of said party shall be constituted by the election from each ward of a city and each town, or from each election district, within said county as the rules of said county committee shall prescribe, of one member who shall be an enrolled voter of the party within such town or ward or election district. In the year nineteen hundred and eleven, such rules may be adopted before the fifteenth day of July by the county committee then existing.

(c) Each member of a county committee, excepting executive committeeman, shall be entitled to one vote, and to one additional vote for each hundred votes, or major fraction thereof cast within his unit of representation for the candidate of his party for governor at the preceding general election.

3. Assembly district committee. (a) The assembly district committee of said party in each county in which a total of two hundred thousand or more votes was cast for governor in the preceding election shall be constituted by the election of one member thereof from each election district within the assembly district; and if the votes cast in said election district for the candidate of the party for governor at the preceding election exceeded fifty and if the county committee of the county containing said assembly district shall so provide by rule, there may be one additional member of said assembly district committee elected from each election district for not less than each fifty votes or major fraction thereof of said excess. Each member of said committee shall be an enrolled voter of the party in the assembly district from which he is elected, as aforesaid. Each election district shall be entitled to at least one vote in said committee, and if the vote cast in an election

*district for the candidate of the party for governor at the preceding election exceeded fifty, it shall be entitled to an additional vote for each fifty votes or major fraction thereof of said excess; and if there shall be more than one member of said committee from an election district, each member shall be entitled to cast an equal share of the vote to which said election district is entitled as aforesaid.*

*(b) In every other county the assembly district committees respectively shall consist of the members of the county committees constituted as aforesaid, who shall reside within the respective assembly districts. The members of said assembly district committee shall be entitled to cast the same vote therein that they are entitled to cast in their respective county committees.*

*4. City committee. (a) In a city containing over one million inhabitants the city committee of each party shall consist of the members of the executive committees of the party elected within the counties having such executive committees, and, in addition, of one member from each assembly district within the other counties whose territory is wholly within the limits of said city. Said additional members shall be enrolled voters of the party in said assembly districts respectively, and shall be elected therefrom as city committeemen. Each member of said city committee shall be entitled to at least one vote in said committee, and if the vote cast in his assembly district for the candidate of the party for governor at the preceding election exceeded one thousand, to an additional vote for each one thousand votes, or major fraction thereof, of said excess.*

*(b) In every other city the city committee of each party shall consist of the members of the county committee whose units of representation are wholly within said city; and each member thereof shall be entitled to cast therein the same vote that he is entitled to cast in meetings of the county committee of which he is a member.*

*5. Judicial district committee. The judicial district committee of each party in each judicial district of the state shall be constituted by the election of three members from each assembly district comprised within said judicial district who shall be enrolled voters of the party within their respective units of representation. Each*

*assembly district shall be entitled to at least one vote in said committee, and if the vote cast in an assembly district for the candidate of the party for governor at the preceding election exceeded one thousand, to an additional vote for each one thousand votes or major fraction thereof of said excess; and the members elected from an assembly district shall be entitled to cast the said vote of said assembly district in equal shares.*

6. *Other district committees. The congressional district committees, the senatorial district committees, the school commissioner district committees, the borough district committees in a city having more than one million inhabitants, and the municipal court district committees and the aldermanic district committees in such a city, shall respectively consist of the members of the county committee or committees, excepting those members who are members of the executive committee, who reside within said districts respectively, and each member of said committees respectively shall be entitled to cast the same vote therein that he is entitled to cast in meetings of the county committee of which he is a member.*

§ 36. *Terms of office. Except as herein provided, the members of any party committee to be chosen as aforesaid shall be elected at the fall primary and shall serve for one year, or until their respective successors are elected; except that in each year in which a president of the United States is to be elected the members of said committees shall be elected at the spring primary and shall take office immediately and shall serve until the fall primary to be held in the next succeeding year or until their respective successors are elected.*

*The members of a city committee who are to be elected specifically as city committeemen, as aforesaid, and the members of the said judicial district committees shall be elected at the fall primary held in the year before the year in which any city officer, or justice of the supreme court, within the districts of said committees, respectively, is to be elected by reason of the expiration of his term of office, including in the case of a justice of the supreme court the expiration of his term of office by reason of age; and the members of said committees, respectively, shall hold office until their successors are elected as herein provided.*

§ 37. *Party rules and regulations.* Each party may by rules and regulations, not inconsistent with this chapter, provide for other committees, and the organization, membership and meetings of such additional committees. The rules and regulations of a party may prescribe the amount of annual dues to be paid by each member of any committee to such committee for the purpose of defraying the expenses thereof, and may contain a provision precluding any member who may fail to comply therewith from participating in the meetings of such committee, except meetings called for the designation of candidates for public office or to fill vacancies in such committee or in nominations.

§ 38. *Vacancies.* Where a vacancy has occurred in a committee provided for in subdivisions one, two, three-a or five of section thirty-five of this chapter, or with respect to a city committeeman specifically elected as such under subdivision four-a of said section, such vacancy shall be filled by the remaining members of said committee by the selection of an enrolled voter of the party qualified for election from the unit of representation as to which said vacancy shall have occurred; except that where the vacancy has occurred in any such committee with respect to a unit of representation from which more than one member of said committee shall have been elected, the remaining member or members, if any, of said committee elected from said unit of representation shall choose an enrolled voter of the party residing in said unit to fill said vacancy.

§ 39. *Meetings of committees.* 1. Except as otherwise provided in this chapter the organization of party committees, the times and places of meetings thereof, notices of meetings and the order and conduct of business, shall be governed by such rules as may be duly adopted by the respective committees. Such rules shall not be effective until a copy thereof duly certified on behalf of the committee shall have been filed as follows: Rules adopted by a state committee in the office of the secretary of state; rules adopted by any other committee in the office in which designations by such a committee of candidates for offices which are to be filled at the general election are required to be filed in accordance with the provisions of this chapter.

2. In case no provisions therefor shall have been made in this chapter and no rules shall have been adopted providing for the time and place of meeting of any committee elected at an official primary in accordance with the provisions of this chapter; the meeting of such committee for the purpose of organization shall be held at a time and place fixed by a notice filed by the chairman of the existing committee, not less than two days before the primary day at which the members of the new committee are to be elected, or in case of his failure to file said notice, then at a time and place to be fixed by the filing of notice thereof by the secretary of the existing committee on or before said primary day; in case of the absence of an appropriate rule or notice as aforesaid, the said meeting, and any other meeting of said committee shall be held at a time and place fixed by a notice signed by not less than five members of said committee and duly mailed to each member of said committee at his post-office address within **three days** before the day for such meeting. Each such notice shall be filed in the office in which designations by said committee of candidates for party nominations are required to be filed. At any meeting called as aforesaid the said committee may organize, adopt proper rules and may transact any other business within the powers conferred upon said committee by this chapter or by the rules of the party not inconsistent with the provisions of this chapter.

3. Each committee, its officers and agents, shall duly deliver its books, papers and effects to its successor.

§ 40. Quorum. When the members present of a committee represent a majority of the total number of votes which all the members of said committee are authorized to cast under the provisions of this chapter, a quorum shall be deemed to be present.

§ 41. Designation of candidates for party committeemen.  
1. Candidates for election as party committeemen at any official primary shall be designated by petition only.

2. Petitions designating candidates for election as members of any party committee shall be filed in the office wherein the designations of candidates for nomination for public office within the same political division are required to be filed under the provisions of section sixty-four of this chapter, and shall be so filed

on or before five o'clock in the afternoon of the third Tuesday preceding the primary at which said candidates for party committees are to be voted for. All petitions filed in accordance with the provisions of this section, or certified copies thereof, shall forthwith be conspicuously posted by the custodian of primary records in his office and shall remain so posted until primary day, and shall be open to inspection as public records at all reasonable hours.

3. Petitions designating candidates for election to the several committees of the two parties casting the highest and next highest number of votes for governor at the last preceding election shall be signed only by enrolled voters of said party residing within the unit of representation from which the candidate is to be elected, as follows:

(a) Where said unit of representation is an assembly district, by not less than fifty nor more than one hundred enrolled voters.

(b) Where said unit of representation is less than an assembly district, by at least five and not more than fifty enrolled voters.

4. Petitions designating candidates for election to the several committees of all other parties shall be signed only by enrolled voters of such parties, in number equal to at least one-fifth of one per centum of the total vote polled by the candidate of such party for governor at the last preceding election, within the units of representation for which the respective petitions are filed.

5. Whenever any unit of representation shall be entitled to two or more members upon any committee specifically provided for in this chapter, every such petition shall include the names of as many persons as candidates for election upon such committee as such unit of representation shall be entitled to.

§ 42. Party council. In a year in which a governor is to be elected the candidates nominated by a party at an official primary election for offices to be voted for by the voters of the entire state, except judicial offices, the members of the state committee of such party, the candidates nominated by a party at an official primary election for the offices of state senator and member of assembly and, if the rules of the state committee shall so provide, the chairman of the county committees of the party, shall together constitute the party council, which shall meet at a time and place to

*be designated by the state committee in its rules. If no rule providing therefor shall have been duly adopted, then such party council shall meet at a place, and at a time not more than two weeks after primary day, to be designated by the party candidate for governor, upon notice duly mailed to each member of the council at his post-office address not less than four days before the specified day of the meeting thereof; in case no meeting of such party council shall be called by said candidate for governor, by notice mailed within eight days after primary day, the candidate for lieutenant-governor may call such meeting upon a like notice of four days. The candidate for governor, and in his absence the candidate for lieutenant-governor shall preside at all meetings of the party council and the members present at any meeting duly called shall constitute a quorum. At all meetings thereof each member shall be entitled to one vote. The party council may adopt a platform or statement of principles and policies, and may also adopt or change the party emblem as hereinafter provided.*

§ 28. The section of the election law numbered section one hundred and twenty-four and renumbered section forty-three, as aforesaid, is hereby inserted as a part of article three thereof, and is amended to read as follows:

§ [124] 43. Emblems. When a party nomination is made [by a state convention] of a candidate or candidates to be voted for by the voters of the entire state, it shall be the duty of [such convention] the party council of such party, unless an emblem has theretofore been duly adopted, to select some simple [device or] emblem to designate [and distinguish] the candidates of the political party making such nomination or nominations. Such [device or] emblem shall be shown by a representation thereof upon a certificate signed and duly executed by the [presiding officer] chairman and [a] secretary of said [convention] council, which certificate shall be filed with the secretary of state, and such [device or] emblem, when [so] duly filed, shall in no case be used by any other party or independent body. When any independent body shall make a like nomination, as [hereinbefore] provided in this chapter, it shall be the duty of the persons who shall sign and execute the certificate of nomination of such candi-



date or candidates, to likewise select [some simple device or] *an* emblem to designate [and distinguish] the candidate of such independent body making such nomination, and such [device or] emblem shall be shown by the representation thereof upon such certificate of nomination. The [device or] emblem so chosen, when *duly* filed [as aforesaid], shall be used to designate [and distinguish] all the candidates of the same political party or independent body nominated by such political party or independent body, or duly authorized committee [or primary] thereof in all districts of the state and shall continue to be used to designate [and distinguish] the candidates of such political party or independent body in all districts of the state until changed by the [state convention] *party council* of the political party or by the independent body choosing such [device or] emblem. [The device or emblem chosen as aforesaid may be a star, an animal, an anchor, or any other appropriate symbol, but] Neither the coat of arms or seal of any state of the United States, nor the state or national flag, nor any religious emblem or symbol, nor the portrait of any person, nor the representation of a coin or of the currency of the United States shall be chosen as such [distinguishing device or] emblem.

§ 29. The section of the election law numbered section one hundred and twenty-five and renumbered section forty-four, as aforesaid, is hereby inserted as a part of article three thereof, and is amended to read as follows:

§ [125] 44. Conflict in names or emblems. If [the] certificates of [nomination] the *party council* of two or more different [political] parties or independent bodies shall designate the same, or substantially the same, [device or] emblem or party name, the officer with whom the certificates [of nomination] are filed shall decide which of said [political] parties or independent bodies is entitled to the use of such [device or] emblem or party name, being governed as far as may be in his decision by priority of designation in the case of the [device or] emblem, and of use in the case of the party name. If the other [nominating] *party council* or independent body shall present no other [device] emblem or party name after such decision, such officer shall himself select for such other [nominating] *party council* or

*independent* body another [device] emblem or party name, so that no two different parties shall be designated by the same [device] emblem or party name. [If there be a division within a party, and two or more factions claim the same, or substantially the same, device or name, the officer aforesaid shall decide between such conflicting claims, giving preference of device and name to the convention or primary, or committee thereof, recognized by the regularly constituted party authorities.] Any questions arising with reference to any [device] emblem, or to the [political party or other] name designated in any certificate [of nomination] filed pursuant to the provisions of this [article] chapter, or with reference to the construction, validity or legality of any such certificate shall be determined in the first instance by the officer with whom such certificate [of nomination] is filed. Such decision shall be in writing and a copy thereof shall be sent forthwith by mail by such officer to the committee, if any, named upon the face of such certificate, and also to each candidate nominated by any certificate of nomination affected by such decision. The supreme court, or any justice thereof, within the judicial district, or any county judge within his county, shall have summary jurisdiction upon complaint of any citizen, to review the determination and acts of such officer, and to make such order in the premises as justice may require, but the final order must be made on or before the last day fixed for filing certificates of nomination to fill vacancies with such officer as provided in section one hundred and [thirty-six] *forty-one* of this [article] chapter. Such complaint shall be heard upon such notice to such officer as the said court or justice or judge thereof shall direct.

§ 30. The section of the election law numbered section one hundred and twenty-six and renumbered section forty-five, as aforesaid, is hereby inserted as a part of article three thereof, and is amended to read as follows:

§ [126] 45. Supplying omitted emblems. If [any certificate of nomination of candidates to be voted for by the voters of the entire state, filed with the secretary of state pursuant to the provisions of this chapter,] *any party council, or if any independent body making a nomination of candidates to be voted*

for by the voters of the entire state, shall omit to designate [a device or] an emblem to distinguish the candidates of the [political] party or independent body making such nomination, it shall be the duty of the secretary of state to select [a device or] an emblem for that purpose, and such [device or] emblem so chosen shall be used to distinguish all candidates of that party or independent body throughout the state, whether such candidates are nominated for state or local offices; and if any certificate of nomination of candidates to be voted for by the voters of a district less than the entire state shall be filed with the secretary of state, or with any public officer pursuant to this [article] chapter, by [a political party or] an independent body which has made no nomination of candidates for offices to be filled by the voters of the entire state, and such certificate of nomination shall omit to designate [a device or] an emblem to distinguish the candidates nominated in such certificate, it shall be the duty of the [secretary of state or other] public officer with whom such certificate of nomination is filed to select [a device or] an emblem to [represent] designate the candidates named in such certificate of nomination.

§ 31. The schedule of sections to article four of the election law is hereby amended to read as follows:

#### ARTICLE 4.

##### [ENROLLMENTS AND PRIMARIES IN TOWNS] DESIGNATION OF CANDIDATES FOR PARTY NOMINATIONS.

[Section 90. Territory excepted from operation of article.

91. Application of article.
92. Enrollment of books.
93. Entries in enrollment books; duties of election officers.
94. Special enrollments; correction of enrollment lists.
95. Special enrollment upon becoming of age.
96. Special enrollment after moving.
97. County clerks to compile enrollment lists.
98. Enrollment lists, when to take effect.
99. Who may be enrolled.

Section 100. Enrollment lists and statements to be public records; certified copies.

101. Conduct of primary elections; challenges.

102. Judicial review.

103. Expense a town charge.

104. Penalty. ]

60. *Party nominations; designation, how made.*

61. *Designation by petition.*

62. *Filing of designations.*

63. *Acceptance by person designated.*

64. *Certification by secretary of state. Numbering of candidates by custodians of primary records.*

65. *Vacancies, how filled.*

66. *Designation of delegates to national conventions.*

67. *Presidential electors*

68. *Contests; judicial review*

69. *Official primary ballot.*

§ 32. The election law is hereby amended by inserting in article four thereof thirteen new sections, to be known as sections sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one and seventy-two, to read as follows:

§ 60. *Party nominations; designation, how made. Party nominations for offices to be filled at a general election, which are described in and not excepted by subdivision four of section two of this chapter, shall be made at the fall primary preceding said general election by the enrolled voters of the party as in this chapter provided. Candidates for such party nominations shall be designated by petition as in this chapter specifically provided.*

§ 61. *Designation by petition. Every petition for the designation of a candidate for party nomination or for election as party committeeman shall be in substantially the following form:*

*I, the undersigned, do hereby certify that I am a duly enrolled voter of the ..... party, and I do hereby designate the following named person, or persons, as a candidate, or candidates, for nomination by the ..... party for public office, or offices, or as a candidate or candidates for election to the*

*position, or positions, of the said party to be voted for at the official primary election to be held on the .... day of ..... , A. D., ....., as hereinafter specified:*

<i>Name of candidate.</i>	<i>Public officer or party position.</i>	<i>Place of residence.</i>
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

*I do hereby appoint (here insert the names and addresses of at least three persons) as a committee to fill vacancies in accordance with the provisions of the election law.*

*In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.*

<i>Date.</i>	<i>Name of signer.</i>	<i>Residence.</i>	<i>Election district, town or ward.</i>
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

*State of New York, } ss.:  
County of ..... }*

*..... being duly sworn says that he is over the age of twenty-one years and resides at ..... (insert street and number of residence, if any); that the persons whose names are subscribed to the foregoing petition are severally personally known to him and known to him to be the persons who subscribed the foregoing petition; that they each signed such petition in his presence on the date set opposite their respective names and with full knowledge of the contents thereof.*

*Subscribed and sworn to before me, this  
.... day of ....., A. D., .....*

*(Title of officer taking oath.)*

*A petition for the designation of candidates for party nomination or for election to party position may designate candidates for nomination for one or more public offices, or for election to one or more party positions, or both.*

*Petitions for designation of candidates for party nominations.*

*a. Petitions of the two parties casting the highest and the next highest number of votes for governor at the last preceding election shall be signed respectively as follows:*

*. For any office to be filled by the voters of the entire state by not less than one thousand.*

*For any office to be filled by the voters of the entire city in a city containing more than one million inhabitants, by not less than five hundred.*

*For any office to be filled by the voters of the entire city in a city of the first class containing less than one million inhabitants, for the office of justice of the supreme court, for any county, judicial or borough office to be filled by all the voters of a county containing more than two hundred and twenty-five thousand inhabitants, according to the last preceding state or federal enumeration, by not less than three hundred.*

*For any office to be filled by the voters of the entire city in a city of the second class, for the office of representative in congress, and for the office of senator, by not less than two hundred.*

*For any office to be filled by the voters of the entire city in a city of the third class, for the office of member of assembly, and for the office of justice of the municipal court, by not less than one hundred.*

*For the office of school commissioner, and for the office of alderman, by not less than fifty.*

*For any other office for which a designation may be made as prescribed in this article to which this chapter applies, by at least one-half of one per centum of the vote cast for the candidate for governor of the party of the petitioners at the preceding election within the district within which such office is to be filled.*

*b. Petitions designating candidates for party nominations of all other parties shall be signed by at least one-half of one per centum of the vote cast for governor by such party at the last preceding election within the district within which such office is to be filled.*

*c. All papers signed and verified in the manner and form above prescribed for the purpose of designating the same candidate for nominating for the same public office or the same party position shall, when bound together and offered for filing as provided in this chapter, be deemed to constitute one petition with respect to said candidate.*

*No enrolled voter shall join in designating a greater number of candidates for party nomination for a public office or for election to a party position than the number of persons to be elected thereto. Where an enrolled voter shall sign any petition or petitions designating a greater number of candidates than he is permitted to designate as aforesaid his signatures, if they bear the same date, shall not be counted, and if they bear different dates they shall be counted in the order of their priority of date and only so far as he was entitled to make designations.*

§ 62. *Filing of designations. 1. Where to be filed. All designations for offices to be filled by the voters of the entire state, or any subdivision of the state greater than a county, shall be filed with the secretary of state. All other designations shall be filed with the custodians of primary records for the respective districts, except that each designation for member of assembly for the assembly district composing the counties of Fulton and Hamilton shall be filed in the office of the custodian of primary records of Fulton county, and a copy thereof, certified by such custodian, shall be filed in the office of the custodian of primary records of Hamilton county, so long as the said counties constitute one assembly district; and except that designations of candidates for offices to be filled by the voters residing in the city of New York, or a portion thereof, shall be filed with the board of elections of said city. Designations of candidates for offices to be filled by voters part of whom reside in New York city and part of whom reside in a county not wholly within said city, shall be filed both with the custodian of primary records of such county and with the board of elections of said city. All designations filed in accordance with the provisions of this section, or certified copies thereof, shall forthwith be conspicuously posted by the custodian of primary records in his office and shall remain so posted until primary*

day, and shall be open to inspection as public records at all reasonable hours.

2. *When to be filed.* All designations by petition shall be filed on or before five o'clock in the afternoon of the third Tuesday preceding the primary at which the candidates therein designated are to be voted for. All designations shall at the time of the filing thereof be stamped or indorsed by the secretary of state, or the custodian of primary records, as the case may be, with the day, hour and minute of such filing.

3. *Vacancy in office.* In case a special election shall be called to fill a vacancy in office there shall be an official primary election in and for the district in which the vacancy exists and such official primary election shall be held on the sixteenth day before such special election or if that day be a Sunday or a holiday, on the next preceding business day. Designations of candidates for party nomination for such special election shall be made only by petition; the provisions of this chapter as to the form of petition, manner of execution and verification, and number of signers shall apply to each such petition, and each such petition shall be filed not later than noon of the fifth day preceding the primary election.

§ 63. *Acceptance by person designated.* A petition for the designation either of a party committeeman or of a candidate for public office shall be void, unless there shall be filed in the office of the secretary of state or a custodian of primary records within three days after the filing of such petition a declaration duly executed and acknowledged by the person designated, that if nominated he will accept such nomination, and that if elected he will qualify and serve; except that if such person shall be without the state at the time such designation is filed and proof thereof shall be made by affidavit it shall be unnecessary to file such declaration.

§ 64. *Certification by secretary of state; numbering of candidates by custodian of primary records.* The secretary of state shall, at least seventeen days before an official primary election, except a primary election held to nominate candidates to be voted for at a special election, prepare and transmit to the several custodians of primary records within the political subdivisions where the candidates, designations of whom have been duly filed with him, are to be voted for, a certificate setting forth the names and



*residences of such candidates, the titles of the offices or party positions for which they are named, and the name of the party upon whose primary ballot their names are to be placed, and in case of a special election he shall prepare and transmit such certificate at least three days before the official primary election.*

*Upon the receipt of said certificate the custodian of primary records shall forthwith give the respective candidates upon each set of ballots for each party a number from number one upward, beginning in the alphabetical order of surnames with the first candidate for nomination for public office in the same consecutive order in which said offices appear upon the official ballot for the general election, and then consecutively through the names of said candidates alphabetically in the order of surnames under each division for the nomination of candidates for public office, and in the same manner through the names of said candidates for election to party positions alphabetically under each division, and in the same consecutive order in which said positions are defined in article three of this chapter, provided that where there are two or more candidates for election to the same party committee designated on the same petition the names of such candidates shall be deemed to constitute a group, and the names shall not be given separate numbers, but each group shall be given a single number consecutively in the order in which the petitions containing the names constituting such groups were filed.*

§ 65. *Vacancies, how filled. If a candidate regularly designated for election upon a committee, or for a party nomination for public office, dies before the primary day, or is found to be disqualified to hold the office for which he has been designated, a committee to fill vacancies which may be appointed by the signers and shown upon the face of the petition of designation may make a new designation, to fill the vacancy so created, by making and filing with the officer with whom the original designation was filed a certificate setting forth the cause of the vacancy, the name of the person designated by them, the name of the original candidate, and the name of the party on whose behalf the original certificate of designation was made. Such certificate shall be subscribed and acknowledged by a majority of the members of the committee to fill vacancies, who shall severally make*

*oath that the matters therein stated are true to the best of their knowledge and belief, and when so filed such certificate shall have the same force and effect as the original petition. In case such certificate shall be filed with the secretary of state, he shall forthwith certify to the proper custodian or custodians of primary records the name of the person designated by such certificate and such other facts as are required to be stated therein. In case the certificate from the secretary of state shall be received by a custodian of primary records, or an original certificate of designation as in this section provided for shall be filed with him, after the official ballots have been printed and before primary day, it shall be his duty to prepare and furnish to the inspectors of election in each election district affected adhesive pasters containing the name of the candidate designated to fill the vacancy with directions for the proper use thereof. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no larger than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been designated. Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the person originally designated, the name of the person designated in the new certificate, the title of the office for which the designation is made, the name of the political party to which the committee making the designation belongs, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for each such district. Upon the delivery of said pasters the inspectors of election shall sign and receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall affix one of such pasters in the proper place and in a proper manner upon each official ballot before such ballot shall be delivered to a voter. When so affixed to an official ballot the paster shall be a part of the official ballot. The inspectors shall include in their statement of ballots a statement showing the number of pasters received by*

them, the number of pasters affixed to official ballots, and the number of unused pasters returned by them, the unused pasters to be inclosed in the package of ballots not delivered to voters. The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.

§ 66. *Designation of delegates to national conventions.* In each year when a president of the United States is to be elected, delegates and alternates-at-large, and district delegates and alternates to national party conventions shall be elected at the spring primary. Unless other provision be made by or pursuant to the rules of the national party convention, delegates and alternates-at-large to said convention shall be designated in the same manner as prescribed by this chapter for the designation of candidates for party nominations for offices to be filled by the voters of the entire state, and district delegates and alternates to said convention shall be designated in the same manner as prescribed by this chapter for the designation of candidates for party nominations for the office of representative in congress save that the time for filing designations as hereinabove prescribed shall be computed with respect to the spring primary instead of the fall primary.

§ 67. *Presidential electors.* In each year when a president of the United States is to be elected, candidates for the office of elector for president and vice-president of the United States shall be nominated by the state committee of each of the parties to which this act applies, one for each congressional district, who shall be a resident therein, and two at large.

§ 68. *Contests; judicial review.* Any question arising with reference to the construction, validity or legality of any designation or of any certificate to fill vacancy, or with reference to any other question relating thereto, and any question with reference to the filling of any vacancy on the official ballot before a primary election, shall be determined forthwith in the first instance by the officer with whom such designation or certificate is required to be filed. If such officer declines to receive and file any such designation or certificate, he must forthwith indorse thereon a statement of his grounds therefor and must forthwith return such des-

ignation of certificate to the person who presented it for filing. Any candidate named in such designation or certificate so returned or any signer thereof may apply to the supreme court, or a justice thereof, within the judicial district in which the office of such officer is located, upon a duly certified petition, for an order to show cause why such designation or certificate should not be ordered filed. Such order may be made returnable forthwith, or upon such notice as the court, or justice, may direct, and shall be served upon said officer and such other person or persons as the court, or justice, may require. The court, or justice, may make such final order in regard to the filing of such designation or certificate as may be required in order to carry out the true intent and purposes of this act. Unless a designation or certificate be protested, as hereinafter provided, within three days after the filing thereof, the same shall be deemed to be valid in all respects and the person, or persons, therein designated shall be deemed to have been duly designated. A designation or certificate may be protested, either by said officer, or by any enrolled voter of the party named therein, resident within the political subdivision wherein any candidate therein named is to be voted for. Such protest shall be in writing and signed and shall concisely allege all the grounds upon which such designation or certificate is claimed to be invalid. No such protest shall be effective until filed with the officer with whom such designation or certificate has been filed, and such officer, upon the filing of such protest, shall forthwith post the same, or a true copy thereof, upon a board to be in public view in his office, and shall forthwith mail notice of the fact of the filing of such protest to each candidate affected thereby, and also to the committee, if any, appointed on the face of such certificate to fill vacancies. The supreme court, or a justice thereof, within the judicial district embracing the county wherein such designation or certificate is filed, shall have jurisdiction upon the duly verified petition of any enrolled voter who shall have filed such protest or of any candidate affected thereby, to review summarily the determination and acts of said officer with whom said designation certificate is filed, with respect to the designation or certificate so protested, and to make such final order with regard thereto, or with regard to the legal effect thereof, as

may be required to carry out the true intent and purposes of this chapter. Notice of hearing upon any such petition shall be given to the said officer, to each candidate named in such designation or certificate, and to such other persons, and in such manner, as the court or justice may direct. The pendency of any such proceeding shall not operate to prevent or delay the printing of the official primary ballots, and the names of all candidates shall be printed thereon without regard to the pendency thereof. In case the court, or justice, shall order the removal from the files of any designation or certificate, the names of the candidate, or candidates, which by virtue of such order are wrongfully printed upon any ballot, shall be canceled by means of blank adhesive pasters, which shall be affixed over such name, or names, in the same manner and by the same persons who, by this chapter, are required to affix pasters upon the official ballots for the purpose of adding names of candidates designated to fill vacancies.

§ 69. Official primary ballot. There shall be prepared, printed and supplied in the manner hereinafter provided for use at official primary elections official primary ballots for each election district for each party equal in number to one and one-third times the total number of enrolled voters of the party in the election district, and except as otherwise expressly provided in this chapter, no other ballots shall be used at an official primary election.

No names either of candidates for nomination for public office or of candidates for any party office or position, or of candidates for delegates or alternates to any convention, shall be printed upon an official primary ballot except upon petition duly made as prescribed in this article or in article three of this chapter. Nor shall any names, or words, or signs, or writing whatever be printed, written, stamped or in any manner placed upon an official primary ballot except as herein provided.

The official primary ballots shall conform in quality, weight, color and style of printing to the ballots prescribed in this chapter for use in the general election. The colors of the ballots shall be such that those of each party shall be easily distinguishable from those of all the other parties, and shall be such that the printing thereon shall be easily legible. The ballot shall be printed upon the same leaf with the stub and separated therefrom by a per-

forated line; the part above the perforated line, designated as the stub, shall extend the entire width of the ballot, and shall be of sufficient depth to allow the instruction to voters to be printed thereon. Upon the face of each stub shall be printed in type known as brevier the following instructions: "In order to vote, the voter should make with a lead pencil having black lead a cross X mark in the voting space at the left of the name of the candidate or candidates for whom he desires to vote. To vote for a person whose name is not on the ballot, write the name of such person under the title of the public office or party position in the blank space provided for that purpose. Any other mark than the cross X mark used for the purpose of voting, or any erasure made on this ballot, makes it void, and it cannot be counted as a vote for any candidate. If you tear or deface or wrongfully mark the ballot, return it and obtain another, but only one additional ballot may be so obtained."

Upon the face of each ballot and directly below the perforated line shall be printed the following: "Official ballot for the primary election of the (name of party) party;" the name of the county; the date on which such primary is held; the party emblem; the assembly district number and the election district number, directly below which shall be printed a heavy black horizontal line. The face of the ballot below the heavy black line shall be divided into two parts by a heavy black vertical line. Immediately below the heavy black horizontal line in the center of the space at the left of said vertical line shall be printed the caption "Candidates for nomination for public office."

Under said caption the names of candidates for nomination for public office shall be printed under the titles of the respective offices for which they are candidates respectively, so that the names of all candidates for nomination for an office shall be printed under the title of said office, and so that the said offices shall appear in the same consecutive order in which they appear upon the official ballot for the general election. Immediately below the title of each public office shall be printed in brevier lower case type a direction to voters as to the number of persons to be voted for, in the following words: "Vote for" (the blank space being filled with the number of persons to be nomi-

nated for said office at the official primary election). Immediately below this direction and separated therefrom by a horizontal line shall be printed the name or names of candidates duly designated for such office by petition for such office as provided in this article and in article three of this chapter. Immediately below the names of all the candidates in the case of each public office there shall be left a blank space or blank spaces equal in number to the number of candidates to be nominated for said office. The voter at the official primary election may write in such blank space or spaces the name of any person or persons for whom he desires to vote whose name or names are not printed upon the ballot. Voting spaces shall be provided at the left of each column opposite the names of candidates in the same manner as provided for on the official ballot for the general election.

Immediately below the said heavy black horizontal line and in the space at the right of said heavy black vertical line shall be printed the caption "Candidates for party positions." Under said caption the names of candidates for election to party positions shall be printed under the title of the respective party positions for which they are candidates respectively, so that the names of all candidates for a party position shall be printed under the title of said position, and so that the said party positions shall appear in the order in which said positions are defined in article three of this chapter. Immediately below the title of each of said party positions shall be printed in briefer lower case type a direction to voters as to the number of persons to be voted for, in the following words: "Vote for \_\_\_\_\_" (the blank space being filled with the number of persons to be elected to said party positions at the official primary election). Immediately below this direction and separated therefrom by a horizontal line shall be printed the name or names of candidates duly designated by petition for such party positions as provided in this article and in article three of this chapter. Immediately below the names of all the candidates in the case of each party position there shall be left a blank space or blank spaces equal in number to the number of candidates to be nominated for said position and the voter at the official primary election may write in such blank space or spaces the name or names of any person or persons for whom he

*desires to vote whose name or names are not printed upon the ballot. Voting spaces shall be provided at the left of each column opposite the names of the candidates in the same manner as provided for on the official ballot for the general election.*

*The names of the different candidates shall be separated from each other by light horizontal ruled lines and the spaces devoted to the several public offices and party positions shall be separated by a black ruled line so as to separate each division clearly. If two or more columns are used on either side of the heavy black vertical line the columns shall be separated by a black ruled line.*

*The names together with the number set opposite the same in each division under the title of each public office and under the title of each party position shall be alternated on the official primary ballots of each party and printed in the following manner:*

*First, the forms shall be set up with the names and numbers of the respective candidates for nomination for public office and the names and numbers of respective candidates for election to party positions arranged alphabetically in order according to the surnames of said candidates excepting where two or more candidates are to be elected to the same party committee, the names of such candidates appearing upon the same petitions shall be arranged in groups, and the said groups with their respective numbers shall be arranged in the order in which the petitions were filed with the proper officer. In printing each set of ballots for the several election districts, the positions of the names or groups together with their numbers shall be changed in each division under each title as many times as there are candidates in the division in which there are the most names, a group counting as one name. As nearly as possible an equal number of ballots shall be printed after each change. In making the changes of position the line of type at the head of each division including the name and number shall be placed at the bottom of the division immediately below the last name or group and the column shoved up so that the name and number that before was second in order in said division shall be first in order after the change. After the ballots are printed, they shall be kept in separate piles, the one pile for each change of positions, and shall then be arranged in consecutive order by taking one ballot from each pile in the order*



*of printing, the intention being that each name or group shall appear in the first place under their respective divisions an equal number of times.*

*After the ballots are so arranged they shall be numbered consecutively on the back of the stub as provided in this article.*

*Where there shall be more than thirty persons designated for nomination to public office or more than thirty persons designated for election to party positions, then in either case the names of persons so designated for nomination to public office or for election to party positions, respectively, shall be arranged in columns on the proper side of the heavy black vertical line as hereinbefore prescribed so that not more than thirty names shall be placed in any one column and so that the names of persons designated for nomination for the same office or for election to the same party position shall not be placed in different columns.*

*The number given the respective candidates for nomination for public office and the respective candidates or groups of candidates for election to party positions by the custodian of primary records shall be printed in arabic numerals of heavy faced type at the left of the name of each candidate or groups of candidates for election to party position and at the right of the voting space aforesaid; where there are two or more candidates for the same party committee grouped as aforesaid, each group shall have a single number, and there shall be immediately above and immediately below the names in each group a space of one-quarter of an inch separating said group from the names or groups of names of other candidates for the same party position.*

*Where the name of a candidate for nomination for the same public office or for election to the same party position, or where the same group of candidates for the same party position, is designated by two or more petitions, it shall be placed upon a ballot only once; provided that where the name of a candidate for a party position to which two or more persons are to be elected appears as one of a group in more than one petition, the said name shall be printed as many times as it may form part of distinct groups; and provided further that nothing herein contained shall prevent the printing of the name of a candidate upon the same official ballot as a candidate for nomination for public office*

No. 84

(NAME OF PARTY) BALLOT

(PARTY EMBLEM)

OFFICIAL PRIMARY BALLOT F  
TEENTH ELECTION DIS  
FORTY-THIRD ASSEMBLY  
TRICT, COUNTY OF NEW  
SEPTEMBER 19, 1911.

JOHN DOE,

(Facsimile)

*President Board*

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and at the same time as a candidate for one or more distinct party positions.

On the back of the ballot, below the stub, and immediately at the left of the center of the ballot, shall be printed the name and emblem of the party, and in great primer Roman condensed capitals: "Official primary ballot for," and after the word "for" shall follow the designation of the polling place for which the ballot is prepared, the date of the primary election, and a facsimile of the signature of the officer who has caused the ballot to be printed. On the back of the stub, immediately above the center of the indorsement upon the back of the ballot, shall be printed the consecutive number of the ballot, beginning with "number one," and increasing in regular numerical order.

The official primary ballot shall be prepared and printed in substantially the following form:

§ 33. The schedule of sections to article five of the election law is hereby amended to read as follows:

#### ARTICLE 5.

#### **[NOMINATIONS]** CONDUCT OF PRIMARY ELECTIONS; CANVASS OF RETURNS.

#### **[Section 120. Party nominations.**

121. Party certificates of nomination.
122. Independent nominations.
123. Independent certificates of nomination.
124. Emblems.
125. Conflict in names or emblems.
126. Supplying omitted emblems.
127. Places of filing certificates of nomination.
128. Times of filing certificates of nomination.
129. Certification of nomination by secretary of state.
130. Publication of nominations.
131. Lists for town clerks and aldermen.
132. Posting town and village nominations.
133. Declination of nomination.
134. Objections to certificates of nomination
135. Filling vacancies in nominations.

- Section 136. Certificates of new nominations.
137. Death of candidate after printing of ballots; official pasters.】
90. *Organization and conduct of official primaries.*
91. *Qualifications of voters at official primaries.*
92. *Duties of chairman of official primary.*
93. *Expense of official primary.*
94. *Primary districts and polling places.*
95. *Notice of official primary.*
96. *Primary election officers.*
97. *Removals from, and filling vacancies in, boards of primary election officers.*
98. *Meeting of primary officers, selection of chairman, duties, compensation and oath.*
99. *Ballots, booths and supplies.*
100. *Delivery of ballots and manner of voting.*
101. *Unofficial ballots.*
102. *Preparation of ballot by voters.*
103. *Challenges at official primary elections.*
104. *Persons within the guard-rail.*
105. *Watchers; challengers; electioneering.*
106. *Canvass of votes.*
107. *Intent of voters.*
108. *Proclamation and statement of result.*
109. *Preservation of ballots.*
110. *Canvass of statements of result; certificates of nomination for election.*
111. *Filling vacancies and determination of tie vote after primaries.*
112. *Jurisdiction of, and review by the courts.*
113. *Primaries held to nominate candidates for special elections.*
114. *Unofficial primaries.*
115. *Use of duplicate enrollment lists at unofficial primaries.*
116. *Primaries not governed by preceding sections: notice.*
117. *Organization and conduct of such primaries.*

- Section 118. Qualifications of voters at such primaries.*  
*119. Duties of chairman of such primary.*  
*120. Watchers and canvass of votes at such primaries.*  
*121. Party certificate of nominations of town and village officers.*  
*122. Penalty for violation.*  
*123. Perjury.*

§ 34. The election law is hereby amended by adding thereto as a part of article five a new section, to be known as section ninety, and to read as follows:

§ 90. *Organization and conduct of official primaries.* 1. Every official primary election shall be conducted in each primary election district by the board of primary election officers thereof.

2. All said officers shall take and subscribe the constitutional oath of office before entering on the discharge of their duties.

3. Such primary shall be held open from three o'clock in the afternoon until nine o'clock in the evening, for voting thereat.

4. The primary election officers shall perform the same duties that they are required to perform in a general election, and such additional duties as are in this chapter prescribed.

5. In each year when a president and vice-president of the United States are to be elected, an official primary election shall be held on the eighth Tuesday before the general election and in other years an official primary election shall be held on the seventh Tuesday before the general election; in each year in which a president of the United States is to be elected, an additional official primary election shall be held on the last Tuesday in March.

§ 35. The election law is hereby amended by inserting therein as a part of article five thereof a new section, to be section ninety-one, and to read as follows:

§ 91. *Qualifications of voters at official primaries.* No person shall be entitled to vote at any official primary unless he is duly enrolled and may be qualified to vote on the day of election. The primary election inspectors shall decide all questions that arise relating to the qualifications of voters.

§ 36. Such chapter is hereby amended by inserting therein as a part of article five thereof a new section, to be section ninety-two, and to read as follows:

§ 92. *Duties of chairman of official primary.* The chairman may administer any oath required to be administered at any official primary. When a voter is challenged by an elector he shall reject such vote, unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter, and shall state under oath that he is qualified to vote at such primary.

§ 37. The section of the election law numbered section forty-seven and renumbered section ninety-three, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ ~~[47]~~ 93. Expense of official primaries. The expense of official primary elections, including the expense of preparing and copying new enrollment books and the compensation herein provided to be paid to primary election officers ~~[inspectors]~~, shall be paid by the same officers or boards ~~[of the city in which said primary is held,]~~ and in the same manner, as the expenses of general elections. *If provision shall not have been made for the payment of such expense in any year, including the year nineteen hundred and eleven, then the officers who are empowered by law to make such provision in any county, city, town or other political subdivision of the state, are hereby authorized and directed to raise money to such an amount as may be necessary, in any manner provided by law for meeting expenses in anticipation of the collection of taxes and to pay such expense therefrom. The amount so raised shall be included in the amount to be raised by tax in the ensuing year.*

§ 38. The section of the election law numbered section forty-eight and renumbered section ninety-four, as aforesaid, is hereby inserted as a part of article five thereof, and is amended to read as follows:

§ ~~[48]~~ 94. Primary districts and polling places. ~~[The custodian of primary records shall, thirty days before each official primary day, divide every ward or assembly district in a city and every village to which this article is applicable, into primary districts, each of which shall consist of two contiguous election districts, except that in case there is an odd number of election districts in such ward, assembly district or village, the highest~~

numbered election district shall be a primary district by itself.] *Each election district shall constitute a primary district.* There shall be [two] one polling place[s] in each of such primary districts which shall be designated and provided at public expense by the officers or boards whose duty is to provide polling places for days of general election, and which shall be, so far as [they are] available, the [same] place[s as were] used for the last preceding general election. [The custodian of primary records shall assign one of the polling places in each primary district to the party which, at the last election of a governor, cast the highest number of votes for governor, and at the other polling place in such primary district there shall be held the primary elections of all other parties.]

§ 39. The election law is hereby amended by inserting therein as part of article five a new section, to be known as section ninety-five, and to read as follows:

§ 95. *Notices.* At least three months before an official primary election the chairman of the county committee of each party shall make and deliver to the custodian of primary records for said county a statement of the action of the county committee with respect to the basis upon which the members of the county committee and of the assembly district committee within said county shall be constituted as provided in subdivision two (b) and subdivision three (a) of section thirty-five of this chapter, and the number of the members of said committees to be elected accordingly at said official primary election. In case any party committee, in addition to the committees specifically provided for in this chapter, shall be constituted in accordance with section thirty-seven of this chapter, the chairman of the county committee of the county, or of the city committee of the city embracing the district for which said committee shall be constituted, shall make and deliver to the custodians of primary records having jurisdiction of said district, a statement describing the said committee and the number of members to be elected at the official primary election. If the district for which said committee shall be constituted shall embrace more than one county, and shall not be included within a city, the chairman of the state committee of the party shall make and deliver said statement to the secretary of



*state. In either case said statement shall be made and delivered to the proper officer at least three months before the next official primary election; and if it shall be made and delivered to the secretary of state as aforesaid, that officer shall within one week thereafter make and transmit a certified copy thereof to each of the custodians of primary records having jurisdiction of primary districts within which votes may be cast for candidates for said party positions. Each custodian of primary records shall forthwith post all notices received by him as in this section provided and shall keep the same posted until the next official primary election.*

*The custodian of primary records shall prepare a notice of each official primary election provided for by this article, and shall publish such notice twice a week for a period of four weeks before the primary election in the manner prescribed in this chapter for the publication of notices of a general election. Such notice shall specify the day of such primary election, the hours during which it will be held, the location of each polling place, and the convention, committees and offices for which delegates, members or candidates, as the case may be, will be voted for thereat. And in each county of the state the last publication of such notice shall contain the names of the candidates duly designated whose names will appear upon the official ballot within such county, together with the number given the respective candidates by the custodians of primary records.*

§ 40. The section of the election law numbered section fifty-two and renumbered section ninety-six, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [52] 96. Primary election officers. There shall be for such primary district [two] a board[s] of primary election [inspectors] officers, [one of] which shall consist of the election inspectors, for the election district comprising [or districts comprised within] such primary district [who shall, at the time, represent the party which, at the last preceding general election of a governor, shall have cast the largest number of votes for governor. and the other of which shall consist of the election inspectors who shall represent the party which, at such election, shall have cast

the second largest number of votes for governor, except that in a primary district coterminous with an election district each board shall have, as an additional member thereof, the poll clerk who shall represent the same party as the two inspectors of election. The first mentioned of said boards shall conduct the primary elections of the party represented by its members, and the second mentioned of said boards shall conduct the primary elections of all other parties at the time entitled to hold official primary elections].

§ 41. The election law is hereby amended by inserting as a part of article five a new section, to be known as section ninety-seven thereof, and to read as follows:

§ 97. *Removals from, and filling vacancies in, boards of primary election officers. Removals from boards of primary election officers shall be made, and vacancies occurring in such boards shall be filled, in the same manner as is provided in this chapter for making removals from boards of election officers and for filling vacancies therein on a day of registration.*

§ 42. The election law is hereby amended by inserting as a part of article five a new section, to be section ninety-eight thereof, and to read as follows:

§ 98. *Meeting of primary officers, selection of chairman, duties, compensation and oath. 1. The primary officers in each primary district, as provided in section ninety-six of this chapter, shall meet at the polling places therein at least one-half hour before the time set for opening the polls and shall proceed to place the guard-rail so that it shall be at least six feet in front of the ballot boxes and voting booths and to arrange the space within the guard-rail, and the furniture thereof, including the voting booths, for the orderly and legal conduct of the primary. Before otherwise entering upon their duties, the primary officers of each primary district shall then immediately appoint one of their number chairman, or if a majority shall not agree upon such appointment, they shall draw lots for that position. They shall also designate and appoint in the same manner one of their number who shall act as poll clerk as provided for by subdivision two of this section, who shall be known as the primary poll clerk, and one of their number who shall have charge of the folding and delivery of the ballots to the electors and who shall be known as the primary ballot clerk. In*

counties wholly within a city, in addition to the duties herein prescribed, the fourth or remaining member of the board of primary officers shall compare the signatures as provided by subdivision two of this section. The selection of primary officers to act as a primary poll clerk and a primary ballot clerk must be from primary officers representing two different political parties. The primary officers shall then and there have the ballot boxes required by law for the reception of ballots to be voted thereat, the box for the reception of the ballots found to be defective in printing, or mutilated, before delivery to, and ballots spoiled and returned by electors, the sealed packages of official ballots and instruction cards and distance markers, return sheets and other stationery required to be delivered to them for such primary election and the registration and enrollment books. The primary officers shall thereupon open the sealed packages of instruction cards and cause them to be placed conspicuously, at least one, and if printed in different languages, at least one of each language, in each of the voting booths of such polling place, and at least three of each language in which they are printed in and about the polling place. shall open the sealed packages of official ballots and place them in charge of one of their number selected for that purpose and shall cause to be placed at a distance of one hundred feet from the polling place the visible markers to prohibit "loitering and electioneering" within such distance. They shall also, before any ballots are cast, see that the voting booths are supplied with pencils having black lead only, unlock the ballot boxes, see that they are empty, allow the watchers present to examine them, and shall lock them up again while empty in such a manner that the watchers present and persons just outside the guard-rail can see that such boxes are empty when they are relocked. After such boxes are relocked they shall not be unlocked or opened until the closing of the polls of such election, and except as authorized by law, no ballots or other matter shall be placed in them after they are so relocked, before the announcement of the result of such canvass and the signing of the original statement of canvass and the two certified copies thereof. The instruction cards and distance markers posted as provided by law shall not be taken down, torn or defaced during such primary election. The primary officers, with such boxes and enrollment-books, shall be stationed as near

each other as practicable within such inclosed space. One of the primary officers shall then make proclamation that the polls of the primary are opened, and of the time o'clock in the evening when the polls will be closed. From the time of the opening of the polls until the announcement of the result of the canvass of the votes cast thereat, and the signing of the official returns or statements of such canvass and the copies thereof, the boxes and all official ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except primary officers, duly authorized watchers, persons admitted by the primary inspectors to preserve order or enforce the law, persons duly admitted for the purpose of voting; provided, however, that candidates voted for at such polling place may be present at the canvass of the votes. In all proceedings of the primary officers or canvassers, they shall act as a board, and in case of a question arising, as to matters which may call for a determination by them, a majority of such board shall decide. The primary officers serving on primary days shall each be paid the sum paid to inspectors for services on a day of registration for each day of such service.

Before entering on his duties, each primary inspector shall make and subscribe an oath to faithfully perform his duties as such, which oath shall form a part of the return to the custodian of primary records.

2. Each primary poll clerk at each polling place for which official primary ballots are required to be provided shall have a poll-book for each party in each election district for keeping the list of enrolled voters voting, or offering to vote thereat at the primary election. Except in counties wholly within a city, such book shall have columns headed respectively, "Number of enrolled voter," "Name of party of enrolled voter," "Name of enrolled voter," "Residence of enrolled voter," "Number on ballots delivered to enrolled voter," "Number on ballot voted," and "Remarks." In counties wholly within a city, such book shall have columns headed respectively, "Number of enrolled voter," "Name of party of enrolled voter," "Name of enrolled voter," "Residence of enrolled voter," "Signature of statement number of enrolled voter," "Signature compared by primary inspector," "Number on ballots delivered to enrolled voter," "Number on ballot voted," and "Remarks."

Upon each delivery of an official primary ballot by the primary ballot clerk to an enrolled voter, the primary poll clerk shall enter

upon the poll-book of the election district in which the enrolled voter resides, in the appropriate column, the number of the enrolled voter, in the successive order of the delivery of the ballots thereto, the name of the enrolled voter in the alphabetical order of the first letter of his surname, his residence by street and number, or if he have no street number, a brief description of the locality thereof, the printed number upon the stub of the ballots delivered to such enrolled voter, and the number of the ballot voted by him. Except that in counties wholly within a city in addition to the duties herein prescribed the poll clerk shall previous to the delivery of an official ballot direct the enrolled voter to sign his name by his own hand and without assistance, using an indelible pencil or ink in the column provided therefor. After the enrolled voter shall have so signed, and also before an official primary ballot shall be given him the primary inspector designated for such duty shall compare the signature made in the primary poll-book with the signature heretofore made by the voter in the registration book on registration day, and if said signature is the same, or sufficiently similar to the signature written on registration day, as to identify it as being written by the same person who wrote the signature on registration day, said primary inspector shall thereupon certify that fact by writing his initials after such signature, in the column headed "signatures compared by inspector." If the ballot delivered to any enrolled voter shall be returned by him to the primary ballot clerk, and he shall obtain a new ballot the primary poll clerk shall write opposite his name on the poll-book in the proper column the printed number of the stub of such ballot. Each primary poll clerk shall make a memorandum upon his poll-book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll-book opposite the name of such person the names of the primary officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted.

As each enrolled voter offers the ballot which he intends to vote to the primary inspector, the primary poll clerk shall report to the primary officers whether the number entered on the poll-

*book kept by him as the number on the ballot last delivered to such enrolled voter is the same as the number on the stub of the ballot so offered. As each enrolled voter votes, each primary poll clerk shall enter in the proper column on his poll-book the number on the stub of the ballot voted. Upon the close of the polls of the primary election, the primary poll clerks and all primary officers shall compare the poll-books with the enrollment-books or registers and correct any mistakes found therein.*

§ 43. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section ninety-nine and to read as follows:

§ 99. *Ballots, booths and supplies. The custodian of primary records shall have printed for each party ballots for each election district equal in number, as near as may be, to one and one-third times the total number of enrolled voters of the party in the election district, prepared as herein described, together with at least two of the registration-books for such districts as provided for in section five of this chapter for use in primary elections, and in counties wholly within a city, one of such registration-books shall be the book containing the signatures of the voters who registered for the preceding general election, which shall be delivered by the custodian of primary records to the proper primary officers at the various polling places at least one-half hour before the time fixed for the opening of the polls. The polling places, voting booths, guard-rails, distance markers, ballot boxes, sample ballots, poll-books and other supplies required for official primary elections shall be provided and paid for by the same officers, and in the same manner, as in the case of general elections. At all official primary elections a separate box with the name and emblem of the party and with the number of the election district clearly and conspicuously written or printed thereon shall be provided at each polling place for each party participating in a primary election at such polling place; and there shall also be a large box for the reception of unvoted ballots and an additional box for detached ballot stubs, and there shall be affixed to the outside of the polling place and in at least two places on the inside thereof, and in a conspicuous manner, placards printed with large-sized, bold-faced type, which shall specify the name of the*

*parties whose primary election is being held in such polling place Sample ballots shall be provided by the custodian of primary records for each party for each election district, equal in number, as near as may be, to twenty-five per centum of the number of official ballots required to be furnished for such party for such election district. Such sample ballots shall be printed on paper different in color from the paper used for the official ballot, and there shall be no numbers upon the stubs thereof, but in all other respects such sample ballots shall be precisely like the official ballots. One of such sample ballots shall be furnished upon application at any time on primary day to any voter entitled to vote the ballot of which he requests a sample.*

*The custodian of primary records shall prepare and furnish to each board of primary election inspectors two tally sheet blanks and two statement of result blanks for each political party whose primary election is under the jurisdiction of said board of primary election inspectors. Upon each of said blanks shall be indorsed the name of the party, the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district for which said blank is to be used.*

*Each such tally sheet shall consist of three columns separated from each other by vertical lines running from top to bottom of each page of the tally sheet. In the first column shall be printed the title of each public office for which a candidate is to be nominated, the name of each committee to which members are to be elected, and the name of each other party position to which candidates are to be elected. Under the name of each public office for which candidates are to be nominated and on the same page shall be printed, in alphabetical order, the names of all candidates for the nomination thereof. Under the name of each committee and on the same page shall be spaces in which the primary inspectors shall write, in alphabetical order, the names of all candidates for election thereto. Each name and each space upon said tally sheet shall be separate from the other names and spaces next thereto by parallel horizontal lines extending from one side of the sheet to the other. The second column upon the tally sheet shall be headed, at the top of each page thereof, "Space for*

tally as canvass progresses." The third column in like manner shall be headed, "Space for total number of votes received by each candidate."

Each such statement of result sheet shall consist of two columns separated from each other by a vertical line running from top to bottom of each page of the sheet. In the first column shall be printed the title of each public office, the name of each committee, and other party position, and the names of all the candidates therefor, which shall be printed in the same manner and order as upon the tally sheet in the first column thereof. All names shall be separated from each other by parallel horizontal lines. At the head of each statement of result sheet shall be printed the following: "Statement of result of the vote cast at the official primary election held on the . . . . . day of . . . . . (the blanks being properly filled)," and there shall also be printed the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district. At the foot of each such statement of result sheet shall appear the following certificate to be signed by the primary election inspectors: "We hereby certify that the foregoing statement of result is true and correct in all respects.

" . . . . .  
 " . . . . .  
 " . . . . .  
 " . . . . .

"Board of Primary Election Inspectors."

All pages of each tally sheet and of each statement of result sheet shall be securely bound in convenient form.

§ 44. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred, and to read as follows:

§ 100. *Delivery of ballots and manner of voting.* No voter at a primary election shall be given or be allowed to make or cast the ballot of any party with which he has not enrolled. The folding and delivery of ballots and the manner of voting shall be the same as prescribed for the folding and delivery of ballots and the manner of voting prescribed by the provisions of this chapter relating to general elections so far as the same may be applicable.



*excepting that each ballot after detachment of the stub by the officer charged with that duty shall be deposited in the separate box, provided for the party designated on the ballot, and such officer, in addition to announcing the name of the voter and number of the stub, shall also announce the party name thereon.*

§ 45. The election law is hereby amended by inserting therein as part of article five a new section, to be known as section one hundred and one, and to read as follows:

§ 101. *Unofficial ballots. If, for any cause, the official ballots for any party shall not be provided as required by law at any polling place, upon the opening of the polls of any primary election thereat, or if the supply of official ballots for any party shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly practicable in the form of the official ballot, may be used.*

§ 46. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred and two, and to read as follows:

§ 102. *Preparation of ballot by voters. On receiving a ballot the voter shall forthwith retire alone to one of the voting booths, and without undue delay unfold and mark his ballot. He shall make a cross X mark in each blank square space at the left of the name of the candidate for whom he desires to vote. One straight line crossing another straight line at any angle within the voting space shall be deemed a valid voting mark. It shall not be lawful to make any mark upon a ballot other than a cross X mark made for the purpose of voting and such mark shall be made only with a pencil having black lead and only in the voting spaces to the left of the names of the candidates; except that the voter may write with a pencil having black lead in the blank space under the proper title of the office the name of any person or persons for whom he desires to vote whose name or names are not printed upon the ballot; nor shall it be lawful to deface or tear a ballot in any manner, nor to erase any printed name, device, figure, word or letter therefrom, nor to erase any mark made thereon by such voter. If the voter deface or tear a ballot, or wrongfully mark the same or make an erasure thereon, he may obtain one additional ballot on returning to the ballot clerk the one so defaced or wrongfully marked.*

§ 47. The sections of the election law numbered sections fifty-seven and fifty-eight, and renumbered sections one hundred and three and one hundred and four, as aforesaid, are hereby inserted as a part of article five thereof, and amended to read as follows:

§ [57] 103. Challenges at official primary elections. The right of an enrolled voter to participate in any official primary election shall be subject to challenge at any time before his ballot is deposited in the ballot box. *When any enrolled voter shall be challenged the provisions of sections three hundred and sixty-one, three hundred and sixty-two, three hundred and sixty-three and three hundred and sixty-four of this chapter shall apply so far as they may be applicable.* [when any enrolled voter shall be challenged, the chairman, or one of the members, of said board, shall forthwith put to him an oath or affirmation to answer truly such questions as shall be put to him, and he shall be allowed to vote if, and only if, he shall make such oath or affirmation, and shall answer in the affirmative each of the following questions:

"Are you ..... (using the name which he has given as his name) ?

"Do you reside, and have you, thirty days last past, resided at ..... (giving the address which he has given as his residence) ? ""]

§ [58] 104. Persons within the guard-rail. From the time of the opening of the polls, until the result of the canvass of the votes cast thereat shall have been announced, and the official statements of such canvass shall have been signed, the ballot boxes and all voted ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except primary election [inspectors] officers, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law and persons duly admitted for the purpose of voting; provided, however, that any candidate voted for may be present at the canvass of the votes.

§ 48. The section of the election law numbered section fifty-nine, and renumbered section one hundred and five, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [59] 105. Watchers; challengers; electioneering. *The ballot and other boxes used at any primary shall be examined by the*

*inspectors in the presence of the watchers, if any, before any ballots are received.* [Watchers, not exceeding one] *One watcher for each election district* [ ] may be appointed by any political committee, and by any two or more of the persons whose names are upon any ticket to be voted for at such primary election. Such watchers may be present at such polling place and within the guard-rail from at least fifteen minutes before the examination of any ballot or other box at the opening of the polls of such primary election until after the announcement of the result of the canvass of the votes cast thereat and the signing of the statements thereof by the inspectors. A reasonable number of challengers, at least one person for any three or more persons of each party holding its primary election at that polling place, whose names are upon any *official ballot* [ticket to be voted for] at such primary election, shall be permitted to remain just outside the guard-rail of each such polling place, where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open, at any polling place do any electioneering within such polling place, or within one hundred feet therefrom, in any public street or in any building or room, or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place on any primary day.

§ 49. The section of the election law numbered section sixty and renumbered section one hundred and six, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [60] 106. Canvass of votes. As soon as the polls at any official primary election shall close, the board of primary inspectors shall forthwith publicly canvass and ascertain the result thereof, and they shall not adjourn or postpone the canvass until it shall be fully completed. All questions touching the validity of ballots or their conformity with the provisions of this [article] chapter shall be determined by a majority vote of the board of primary inspectors. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons during the canvass, to close, or cause to be closed, the main

entrance to the room in which such canvass is conducted, in such manner as to prevent ingress or egress thereby. The board of primary inspectors shall proceed to canvass the vote by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the enrollment book[s] to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess, and, without unfolding them, forthwith destroy them. If two or more ballots shall be found in a [the] ballot box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the enrollment book[s] to have been deposited therein, and not otherwise. If there lawfully be more than one ballot box for the reception of ballots voted for at any one polling place, no ballot found in the wrong ballot box shall be rejected, but shall be counted in the same manner as if found in the proper box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the enrollment book[s] to have been deposited in the proper box. The chairman only of the board of primary inspectors shall unfold the ballots taken from [the] a ballot box. When a ballot is not void, and a primary election inspector or a duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any way for the purpose of identification, the inspectors shall write on the back of such ballot "Protested as marked for identification," and shall specify over their signatures upon the back thereof the mark or markings upon such ballot to which objection is made. The votes upon each such ballot shall be counted by them as if not so protested. If any ballots shall be rejected as void, the reason for such rejection shall be written on the back thereof by the chairman

of inspectors, or by an inspector designated by him. All ballots rejected as void, and all ballots protested as marked for identification, shall be inclosed in a separate sealed package, which shall be indorsed on the outside thereof with the names of the inspectors, the designation of the election district, the number and kind of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. A statement of the number of ballots of *any party* protested as marked for identification, and of the number thereof rejected as void, shall be included in each of the statements of the result of the canvass *for such party*. If requested by any watcher, the inspector shall, during the canvass, exhibit any and all ballots cast at such primary election to such watcher, fully opened and in such condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand.

§ 50. The election law is hereby amended by inserting therein as a part of article five thereof a new section, to be section one hundred and seven thereof, to read as follows:

§ 107. *Intent of voters. If the voter marks more names than there are persons to be nominated for an office or elected to party position, or if for any other reason it is impossible to determine the voter's choice of a candidate for a party position or for nomination for an office, his vote shall not be counted therefor but shall be returned as a blank vote for such nomination or party position.*

§ 51. The section of the election law numbered sixty-one, as amended by chapter two hundred and forty of the laws of nineteen hundred and nine, and renumbered section one hundred and eight, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [61] 108. Proclamation and statement of result. Immediately upon the completion of such canvass, the board of primary inspectors in each primary district shall make public oral proclamation of the result thereof, and shall make *upon the statement of result sheet for each party* a written statement of such result, [for each election district in such primary district] and also a duplicate thereof, which shall be known as the duplicate statement. Immediately after the completion of such statements, such

board shall file the originals thereof with the custodian of primary records, and shall file the duplicate statements with the clerk of the city, town or village. [In any county which contains a city or village to which this article is applicable and has territory greater than such city or village, the officers presiding at primary elections held in the political divisions of such county outside of such city or village shall file with the custodian of primary records immediately after the holding of every such primary election a sworn statement of the delegates and members of general committees elected thereat.] *At all reasonable times any watcher shall have reasonable opportunity to make a transcript of any such statement, or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned.*

§ 52. The section of the election law numbered section sixty-two and renumbered section one hundred and nine, as aforesaid, is hereby inserted as a part of article five thereof, and amended to read as follows:

§ [62] 109. [Certificates of election; p] Preservation of ballots. [At all reasonable times any watcher shall have reasonable opportunity to make a transcript of any such statement, or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned. In the case of a primary election at which persons are elected to any convention or committee from election districts as the unit of representation, the board of primary inspectors shall, promptly after canvassing the vote, deliver to each of the persons who receive the largest number of votes as delegates to, or as members of, such convention or committee, or to the respective persons authorized in writing by them to receive the same, a certificate stating the total number of votes cast for the respective candidates and the number thereof received by such persons respectively. Such certificate shall be the evidence of the election of such persons, and shall entitle them and each of them to be placed upon the roll of, and be admitted to, such convention or committee.]

After the close of the canvass of the votes at official primary elections, the ballots cast thereat, except those rejected as void or

protested as marked for identification, shall be replaced in the ballot boxes from which they were respectively taken, and such ballot boxes shall then be securely locked and sealed, and, *together with the box containing the stubs*, shall be returned to the officer from which they were received, who shall safely keep the same, subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after such primary election, and until all suits or proceedings before any court or judge touching the same shall have been finally determined, when the ballots *and stubs* shall be removed and, without examination, destroyed. The custodian of primary records shall not be required to retain on file the enrollment books and other papers required to be filed with him by the board of primary inspectors for a period of more than three years unless otherwise directed by the district attorney of the county or a judge or justice of a court of record.

§ 53. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred and ten, to read as follows:

§ 110. *Canvass of statements of result; certificates of nomination or election.* 1. *Canvass by custodians of primary records.* The custodian of primary records shall forthwith proceed to canvass the statements of result filed with him as provided in this article, and shall complete such canvass within one hundred and twenty hours from midnight of the day upon which the primary election was held.

*He shall canvass separately the votes cast in each election district by the enrolled voters of the several parties respectively.*

*The candidate for a party nomination to public office, or for election to a party position, to be filled by the voters of a territory wholly within an election district, ward or town, who has received the highest number of votes cast in the primary election of a party in such election district, ward or town, shall be the nominee of said party for such public office, or shall be elected to such party position. Said custodian shall forthwith deliver to such candidate, if nominated, and if elected to a party position, a certificate of his nomination or election.*

*The candidate for a party nomination to public office, or for election to a party position to be filled by the voters of a district*

*wholly within the jurisdiction of a custodian of primary records and greater than an election district, ward or town, who has received the highest number of votes cast, in the primary election of a party, in an election district, if within a city containing one million inhabitants or more, if elsewhere, in a ward or town, shall be credited with a total vote equal to the number of votes cast for the candidate of said party for governor at the preceding election in such election district, ward or town.*

*The candidate who has the highest number of votes so credited shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The custodian shall forthwith deliver to such candidate a certificate of such nomination to public office or election to party position, as the case may be.*

*If the boundaries of any election district within the territory in which the custodian of primary records has jurisdiction shall have been changed since the last preceding general election at which a governor was elected, said custodian at least thirty days before the primary election shall estimate as closely as possible the vote of each party for governor at such election within the limits of the newly constituted election districts. He shall forthwith reduce such estimates to writing and file the same as a part of the public records of his office. Each such estimate so filed shall, for the purpose of this article, be and be treated as the vote of the respective parties for their candidates for governor, respectively, at the preceding general election in each such election district.*

*In case a part but not the whole of an assembly district is included within a district in which a designation for public office is required to be filed with the secretary of state, the custodian of primary records having jurisdiction over such part of an assembly district shall, on or before primary day, certify to the secretary of state the vote cast therein at the last preceding election for the candidate of each party for governor.*

*The custodian of primary records shall duly certify to the secretary of state a statement of the vote cast in the primary election by the enrolled voters of each party, respectively, in each assembly*



*district in the territory within his jurisdiction for all candidates for public office, or for party position, whose designations are required by this chapter to be filed in the office of the secretary of state, except candidates for the office of member of congress or state senator, whose vote in each town or ward, and, if in a city of one million inhabitants or over, in each election district therein, shall be stated. Such certificate shall be filed by such custodian in the office of the secretary of state within ninety-six hours from midnight of the day on which the primary election was held.*

2. *The secretary of state shall forthwith proceed to canvass the certified statements so filed with him, and such canvass shall be made separately as to the candidates of each party and in the following manner:*

*To each candidate, except a candidate for the office of member of congress or state senator, certified to him to have received the highest number of votes cast in any assembly district in the primary election of a party, he shall credit a vote equal to the number of votes cast in such assembly district for the candidate of said party for governor at the preceding election, and to each candidate for the office of member of congress or state senator certified to have received the highest number of votes cast in any town or ward, or, if in a city of one million inhabitants or over, in any election district therein, he shall credit a vote equal to the number of votes cast in such town, ward or election district for the candidate of his party for governor at such preceding election. The candidate who has the highest number of votes so credited shall be entitled to receive the certificate of nomination of said party for the public office, or the certificate of election to the party position, for which he was designated. The secretary of state shall forthwith transmit to such candidate a certificate of such nomination to public office or election to party position as the case may be.*

3. *A certificate of nomination or election at an official primary of a party duly issued as herein provided shall entitle the person to whom it is issued, if a candidate for public office, to a place on the official election ballot as the candidate of said party for the office for which he has been nominated, and if a candidate for party position to membership in the committee or to a seat in the convention to which he is elected.*

4. *Notwithstanding the provisions of this section, any party at any time before September first in the year nineteen hundred and eleven, and at any time before July first in any subsequent year, may in accordance with its practice adopt a rule providing the method or plan for canvassing the votes cast as provided in this chapter at an official primary election by the enrolled voters of such party for candidates for nomination for public office and for election to party positions, whether for the entire state or for any political subdivision thereof, and such method or plan may provide for the canvass of such votes in a manner different from that prescribed in subdivisions one and two of this section, or different from that previously adopted by said party, and either with or without proportional representation.*

*Unless a party in accordance with its practice shall otherwise provide such a method or plan for canvassing said votes may be adopted on behalf of said party at any time of the times aforesaid in the following manner:*

*By the state committee of said party with respect to nominations for offices to be filled by the voters of the entire state or of any district embracing more than one county, except a city in which the party has a city committee, and with respect to any party position or membership in any party committee where such position or committee represents the party either in the entire state or in such a district.*

*By the county committee of the party in any county, with respect to nominations for offices to be filled by the voters of said county or of any district therein and not embracing more than said county, except any city in which said party has a city committee, and with respect to any party position or membership in any committee representing the party in said county or in such a district.*

*By the city committee of the party in any city in which the party has a city committee, with respect to nominations for offices to be filled by the voters of said city or of any division thereof, and with respect to any party position or membership in any party committee representing the party in said city or in any division thereof.*

*Any party rule providing the method or plan for canvassing the votes cast at the official primary election as aforesaid must be filed.*

*properly authenticated, within five days after its adoption as aforesaid, in the office of the secretary of state and also in the offices of the custodians of primary records having jurisdiction over the political subdivisions, respectively, to which the rule is applicable; and no such rule adopted by any committee as aforesaid shall be effective unless adopted by a vote of the majority of all the members thereof.*

*Where a party rule providing the method or plan for the canvass of votes shall be adopted and filed as aforesaid, said canvass shall be made and certified by the officers mentioned in subdivisions one and two of this section in accordance with the said method or plan and said officers shall issue certificates of party nomination for office or of election to party position to the persons entitled thereto accordingly and said certificates of nomination or election shall have the same force and effect as the certificates of nomination or election described in subdivision three of this section.*

§ 54. The election law is hereby amended by inserting therein as a part of article five a new section, to be known as section one hundred and eleven, and to read as follows:

§ 111. *Filling vacancies and determination of tie vote after primaries. A vacancy in a nomination for public office made at a primary election shall be filled as follows: A vacancy caused by the death of a candidate, or his disqualification, or by a tie vote, shall be filled by the committee of the party authorized by this chapter to make designations for such office. Such vacancy may be filled by a majority vote of a quorum of such committee. In case of a vacancy caused by a tie vote, only the candidates between whom such tie vote occurred shall be eligible for such nomination. Certificates of such nomination shall be filed in the office in which a designation of a candidate for such office is required to be filed.*

§ 55. The section of the election law numbered section seventy and renumbered section one hundred and twelve, as aforesaid, is hereby inserted as part of article five thereof, and amended to read as follows:

§ [70] 112. Jurisdiction of, and review by, the courts. Any action or neglect of the officers or members of a political [convention or] committee, or of any inspector of primary election, or of any public officer, or board, with regard to the right of any

person to participate in a primary election, [convention] or committee, or to enroll with any party, or with regard to any right given to, or duly prescribed for, any voter, political committee, [political convention,] officer or board, by this article, shall be reviewable by the appropriate remedy of mandamus or certiorari, as the case may require. In addition thereto, the supreme court, or any justice thereof within the judicial district, or any county judge within his county, shall have summary jurisdiction, upon complaint of any citizen, to review such action or neglect. Such complaint shall be heard upon such notice as the said court or justice or judge thereof shall direct. In reviewing such action or neglect, the court, justice or judge shall consider, but need not be controlled by, any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto, and shall make such decision and order as, under all the facts and circumstances of the case, justice may require. For any of the purposes of this section, service of a writ of mandamus, certiorari, order or other process of said court or justice or judge thereof upon the chairman or secretary of such [convention,] committee or board, shall be sufficient.

§ 56. The election law is hereby amended by inserting therein as a part of article five a new section, to be section one hundred and thirteen, to read as follows:

§ 113. *Primaries held to nominate candidates for special elections. In case a special election shall be called to fill a vacancy in office there shall be an official primary election in and for the political subdivision in which the vacancy exists for the purpose of nominating candidates, of the various parties holding the same, for the office to be filled at such special election, and such official primary election shall be held on the eighteenth day before such special election, or if that day be a Sunday or a holiday, on the next preceding business day. Designations of candidates for public office shall be made by party committee or petition in the manner provided in this chapter; provided, however, that each such designation by party committee shall be filed not later than noon of the fourth day preceding and each such petition shall be filed not later than noon of the second day preceding the primary election. Notice of a meeting of a party*

*committee to designate candidates for such an official primary must be mailed to each member of such committee at his last known post-office address not less than two days before the day fixed for such meeting. If, however, the proclamation by which the special election is called is made more than thirty days prior to the date of such election, the governor may, in his discretion, and by such proclamation, enlarge the interval between the times above prescribed for filing petitions for nominations, and holding the official primary election.*

*When the primary election, to which this section relates, is to be held on the date specified therein, such reasonable notice thereof shall be given by the custodian of primary records as the circumstances permit. When the same is to be held at a different time, as designated in the proclamation by which the special election is called, the provisions of the proclamation in relation to notice shall be observed. The official primary ballots shall be furnished and used and candidates' names and the title of the public office or party position printed thereon as provided in article five of this chapter, and the canvass of votes, preparation of statements of result and tally sheets, canvass of results and certification thereof shall be conducted as provided in article five; except that any provision in either article as to the time of performing any such act shall not be controlling in respect to such primary election, but the same shall be performed at or within such reasonable time or times as may be practicable under the circumstances.*

§ 57. The section of the election law numbered section fifty and renumbered section one hundred and fourteen, as aforesaid, is hereby inserted as a part of article five, and amended to read as follows:

§ [50] 114. Unofficial primaries. Notice of all unofficial primary elections shall be given in the same manner as in the case of official primary elections, except that such notice shall be given by the proper party officers and shall not be at public expense. Unofficial primary elections shall be held in such places within the unit of representation for which the primary election is held, as shall be designated by the proper political committee, but there shall be at least one polling place within and for each assembly district, ward or village. The chairman and secretary of the

political committee calling an unofficial primary election, or under whose direction such primary election is held, shall post and keep posted during the election, at or near the entrance to the room where the primary election is held, so that the same is clearly visible from the street, a conspicuous notice calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules and regulations of such party.

*There shall be a chairman and secretary for each unofficial primary and there may be tellers. No person shall be entitled to vote in an unofficial primary unless he may be qualified to vote on the day of election.*

*The chairman may administer any oath required to be administered at any primary and he shall decide all questions that arise relating to the qualifications of voters when a voter is challenged by any elector and shall reject such vote unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter and shall state under oath that he is qualified to vote at such primary.*

*The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.*

*No unofficial primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.*

§ 58. The section of the election law numbered section thirty-seven and renumbered section one hundred and fifteen, as aforesaid, is hereby inserted as a part of article five, and amended to read as follows:

§ [37] 115. Use of duplicate enrollment [books] lists at unofficial primaries. At an unofficial primary election of a party,

the certified copy of the enrollment *lists* [books, completed, in the case of election districts outside of a city containing a population of not less than fifty thousand and not more than three hundred thousand, or a city containing a population of one million or over, to the first day of the month preceding the month in which the primary election is held,] shall be used, and no voter shall be allowed to take part in such primary election as a resident of an election district, unless his name is upon the certified copy of the enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate.

§ 59. The section of the election law numbered section three and renumbered section one hundred and sixteen, as aforesaid, is hereby inserted as part of article five, and amended to read as follows:

§ [3] 116. *Primaries not governed by preceding sections; [N] notice [of primary. Elsewhere than in a city or in a village having five thousand inhabitants or more according to the last preceding federal or state enumeration, e]. Every primary held for the election of a town, village or school district committee, or for the election of delegates to a town or village convention or city convention to nominate candidates for a city election to be held at a time other than the general election, or for the nomination of town, village or school district officers or city officers to be elected at a time other than the general election, and every other primary not governed by the preceding sections of this article shall be called and held pursuant to notice given according to the regulations and usages of the political party or independent body holding it.*

§ 60. The section of the election law numbered section four and renumbered section one hundred and seventeen, as aforesaid, is hereby inserted as a part of article five, and amended, to read as follows:

§ [4] 117. *Organization and conduct of such primaries. Every such primary, unless otherwise provided by law, shall be presided over and conducted by officers to be selected in the manner prescribed by the rules or regulations of the political party or independent body holding such primary. [If the rules and regulations of the political party or independent body calling it so require, or if it shall be, by a vote of the voters present, so resolved, or, if it be in a city or in a village having five thousand inhabitants or more*

according to the last preceding federal or state enumeration, and five qualified voters of the district where it is held, belonging to the political party calling it, shall serve upon the secretary or chairman of the general committee of the party, or of its organization in such city or village, or upon the chairman of the district committee, a written demand stating that they so require it, t] The following additional requirements[, or such of them as may be specified in such demand,] shall be complied with:

1. The chairman and other officers shall take the constitutional oath of office.

2. Candidates and delegates and officers of the organization or committee shall be chosen by ballot *if the rules and regulations of the political party or independent body calling it so require, or if it shall be so resolved by a vote of the voters present.*

3. The meeting shall be held open [not less than one hour for voting thereat.] *for such time as the rules and regulations of the political party or independent body calling it require, which shall not be less than three hours between the hours of twelve o'clock noon and seven o'clock in the evening.*

4. The tellers shall keep a poll list of the names and residences of all persons voting, and assist the secretary in the canvass of the votes.

5. A voter shall be appointed watcher for each candidate or set of candidates or delegates requesting the same.

6. The chairman shall publicly announce the number of votes cast for each candidate, and the result of the canvass at the completion thereof, and shall[, if the primary be held in a city or in a village having a population of more than five thousand inhabitants, as shown by the last preceding federal or state enumeration,] *within forty-eight hours after the closing of such primary* file a statement of such results and the oath taken at such primary, and the poll list kept thereat, in the office of the county clerk[, if located in such city or village,] and *a duplicate statement of such results* [otherwise] in the office of the town, city or village clerk, and the papers so filed shall be public records and open to inspection and examination by any voter of the state.

§ 61. The section of the election law numbered section five, and renumbered section one hundred and eighteen, as aforesaid,



is hereby inserted as a part of article five, and amended to read as follows:

§ [5] 118. Qualifications of voters at *such* primaries. No person shall be entitled to vote at any *such* primary held for the purpose of nominating candidates for public office or for the purpose of electing delegates to conventions to nominate *such* candidates unless he may be qualified to vote for *such* candidates on the day of election, and if a party primary, he is also an enrolled voter of the party. Voters at *such* primaries held by independent bodies shall possess such other qualifications as shall be required by the regulations and usages of the [political party or] independent body holding the same. At every party primary held for the election of a town or village committee, for delegates to a town or village convention, or for the nomination of town or village officers, the certified copy of the enrollment book for the town as filed in the town clerk's office by the custodian of primary records, together with the certified statements of supplemental enrollments so filed prior to the time of *such* primary, shall be used; or in lieu thereof, copies of *such* certified enrollment book and statements certified by the town clerk may be used. The town clerk shall, on request, deliver to the proper town or village committee of the party holding *such* primary for use at *such* primary the original certified copy of *such* enrollment book and statements of supplemental enrollments for *such* town, or certified copies thereof. If originals are so delivered, they shall be returned to the town clerk at the close of *such* primary. At a primary election of a party held to elect delegates to a city convention to nominate officers to be elected at a city election, at a time other than the general election, or to nominate officers to be elected at *such* election, the certified copy of the enrollment completed to the first day of the month preceding the month in which the primary is held shall be used, and no voter shall be allowed to take part in *such* primary election as a resident of an election district, unless his name is upon the certified copy of the enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate.

§ 62. The section of the election law numbered section six, and renumbered section one hundred and nineteen, as aforesaid, is

hereby inserted as a part of article five, and amended to read as follows:

§ [6] 119. Duties of chairman of *such* primary. The chairman may administer any oath required to be administered at any *such* primary. He shall decide all questions that arise relating to the qualifications of voters when a voter is challenged by an elector and shall reject such vote, unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter, and shall state under oath that he is qualified to vote at such primary.

§ 63. The section of the election law numbered section seven, and renumbered section one hundred and twenty, as aforesaid, is hereby inserted as a part of article five, and amended to read as follows:

§ [7] 120. Watchers and canvass of votes at *such* primaries. The ballot box used at any *such* primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate the secretary shall publicly announce the vote and the result of the canvass.

§ 64. The election law is hereby amended by inserting therein, as part of article five, a new section, to be known as section one hundred and twenty-one, and to read as follows:

§ 121. *Party certificate of nominations of town and village officers. The party certificate whereby nominations of candidates for public office to be voted for only in a town, or a village or subdivision thereof, shall contain the title of the office for which each person is nominated, and the name and residence of each such person. It shall also designate, in not more than five words, the name of the political party by which the nomination is made and shall be properly authenticated.*

§ 65. The election law is hereby amended by inserting therein as a part of article five, a new section, to be known as section one hundred and twenty-two, and to read as follows:

§ 122. *Penalty for violation.* Unless otherwise expressly provided in this chapter, any person violating any of the provisions of articles two, three, four and five of this chapter is guilty of a misdemeanor.

§ 66. The section of the election law numbered section seventy-four, and renumbered section one hundred and twenty-three, as aforesaid, is hereby inserted as a part of article five hereof, and amended to read as follows:

§ [74] 124. Perjury. All oaths administered under the provisions of [this article] the preceding articles of this chapter are hereby declared to be oaths required by law, and to be necessary for the ends of public justice.

§ 67. A new article and schedule of sections are hereby inserted in the election law, to read as follows:

#### ARTICLE 5-A.

##### INDEPENDENT NOMINATIONS AND CERTIFICATES OF NOMINATION.

*Section 134. Independent nominations.*

*135. Independent certificates of nomination.*

§ 68. Section one hundred and twenty-two of the election law is hereby renumbered section one hundred and thirty-four, and is hereby inserted unchanged in article five-a thereof.

§ 69. Section one hundred and twenty-three of the election law, renumbered section one hundred and thirty-five, as aforesaid, is hereby inserted in article five-a thereof, and amended to read as follows:

§ [123] 135. Independent certificates of nomination. Independent nominations shall be made by certificate subscribed by such voters, each of whom shall add to his signature his place of residence, and shall make oath that he is a voter and has truly stated his residence. The making of the said oath shall be proved by the certificate of the notary or other officer before whom the said oath is taken, and it shall be unnecessary for a voter who has subscribed a certificate of nomination as herein provided to sign any affidavit as to the matter to which he has made oath as aforesaid. The certificate hereinbefore provided for of the notary or other officer shall be in the following form substantially:

"STATE OF NEW YORK, }  
County of....., } ss.:

On the ..... day of ....., in the year ....., before me personally came (here shall be inserted the names of each and every voter appearing and making oath before the said officer), each of whom was to me personally known and known by me to be the voter whose name and place of residence is subscribed by him to the foregoing certificate and each of the foregoing voters being by me duly and severally sworn did make oath that he is a voter and has truly stated his residence, and that it is his intention to support at the polls the candidacy of the person or persons nominated for public office in the foregoing certificate of nomination.

(Signature and official title.)"

The certificate of nomination and each separate paper thereof, if there be more than one such paper, shall contain the following declaration which shall be subscribed by the signers thereof:

"We, the undersigned duly qualified voters of the district for which the nomination for public office is hereby made under the provisions of section one hundred and [twenty-two] *thirty-four* and one hundred and [twenty-three] *thirty-five* of the election law, do hereby declare that it is our intention to support at the polls the candidacy of the person or persons herein nominated for public office."

The certificate shall also contain the titles of the offices to be filled, the name and residence of each candidate nominated, and if in a city, the street number of such residence and his place of business, if any; and shall designate in not more than five words the political or other name which the signers shall select, which name shall not include the name of any organized [political] party.

A certificate may designate upon its face one or more persons as a committee to represent the signers thereof, for the purposes specified by section one hundred and [thirty-five] *forty-four* of this [article] *chapter*. The signatures to the certificates of nomination need not all be appended to one paper. No person shall join in nominating more candidates for any one office than there are persons to be elected thereto, and no certificate shall contain

the names of more candidates for any office than there are persons to be elected to such office. *The certificate shall be filed with the same officer or officers as a designation of a candidate for a party nomination for the same office shall be filed.*

§ 70. A new article, to be known as article five-b, is hereby inserted in the election law, to read as follows:

### ARTICLE 5-B.

#### FILING CERTIFICATES OF NOMINATION; PUBLICATION.

*Section 136. Places of filing certain certificates of nomination.*

*137. Times of filing certificates of nomination.*

*138. Certification of nominations by secretary of state.*

*139. Publication of nominations.*

*140. Lists of town clerks and aldermen.*

*141. Posting town and village nominations.*

*142. Declination of nomination.*

*143. Objections to certificates of nomination.*

*144. Filling vacancies in nominations.*

*145. Certificates of new nominations.*

*146. Death of candidate after printing of ballots; official pasters.*

§ 71. Section one hundred and twenty-seven of the election law, renumbered section one hundred and thirty-six, as aforesaid, is hereby inserted in article five-b thereof, and amended to read as follows:

§ [127] 136. Places of filing *certain* certificates of nomination. [Certificates of nomination of candidates for office to be filled by the voters of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county shall be filed in the office of the county clerk of Hamilton county so long as the said counties constitute one assembly district, and except that certificates of nomination of candidates for offices to be filled only by the voters

or a portion of the voters of the city of New York shall be filed with the board of elections of the city of New York.

Certificates of nomination of candidates for offices to be filled only by the votes of voters, part of whom are of New York city and part of whom are of a county not wholly within the city of New York, shall be filed with the clerk of such county and in the office of the board of elections of said city. Certificates of nomination of candidates for offices of any other city, except the city of Buffalo, to be elected at the same time at which a general election is held shall be filed with the clerk of the county in which such city is located.】 Certificates of nomination of candidates for offices [of any other city, except the city of Buffalo, or for officers] of a *city*, village or town to be elected at a different time from a general election shall be filed with the clerk of such city, village or town, respectively.

In towns in which town meetings are held at the time of general elections, certificates of nomination of candidates for town offices shall be in duplicate, one of which shall be filed with the town clerk of the town in which such officers are to be voted for, and the other with the clerk of the county in which such town is located, except that in [the county of Erie] *counties having a commissioner of elections* all such duplicate certificates of nomination shall be filed, one with the commissioner of elections and one with the clerk of the town in which such officers are to be voted for. [All other certificates of nomination, except in the county of Erie, shall be filed with the clerk of the county in which the candidates so nominated are to be voted for, and in the county of Erie all such certificates, including certificates for the nomination of ward and city officers in the city of Buffalo, shall be filed with the commissioner of elections.】

All *filed* certificates and corrected certificates of nominations, all objections to such certificates and all declinations of nomination are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without delay every such paper to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates

issued by or filed in the office of such officer or board or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination, and in which shall also be stated all declinations of nomination or objections to nominations, and the time of filing each of the said papers.

§ 72. Section one hundred and twenty-eight of the election law is hereby renumbered section one hundred and thirty-seven, and inserted in article five-b thereof, and is amended to read as follows:

§ [128] 137. Times of filing certificates of nomination. [The] *Unless otherwise specifically provided in this chapter, the different certificates of nomination shall be filed within the following periods before the election for which the nominations are made, to wit: Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; if independent nominations, at least twenty-five and not more than forty days; those required to be filed with the county clerk, or the board of elections of the city of New York, or with the city clerk of any other city, or with the commissioner of elections of [Erie county] counties having a commissioner of elections, if party nominations, at least twenty-five and not more than thirty-five days; if independent nominations, at least twenty and not more than thirty-five days; those required to be filed with a town or village clerk, if party nominations at least fifteen and not more than twenty days; if independent nominations at least ten and not more than twenty days; except that in towns, other than in the county of Erie, where town meetings are held at the time of general elections, certificates of nomination for town officers shall be filed with the town and county clerks within the time required by this section for the filing of certificates of nomination with the county clerk, and in the county of Erie such certificates shall be filed with the commissioner of elections and the town clerks not less than twenty nor more than thirty days before the day of election.*

In case of a special election ordered by the governor under the provisions of section two hundred and ninety-two of this chapter the certificates of nomination for the office or offices to be filled

at such special election shall be filed with the proper officers or boards not less than [fifteen] *ten* days before such special election.

§ 73. Section one hundred and twenty-nine of the election law is hereby renumbered section one hundred and thirty-eight, and inserted in article five-b thereof, and is amended to read as follows:

§ [129] 138. Certification of nomination by secretary of state. The secretary of state shall, fourteen days before the election, or *nine days before a special election*, certify to the county clerk of each county, except [the county of Erie] *counties having a commissioner of elections*, and those counties the whole of which is within the city of New York, and to the board of elections of the city of New York, and to the commissioner of elections of [the county of Erie] *counties having a commissioner of elections*, the name, residence and place of business, if any, of [such] *each* candidate *either* nominated in any certificate so filed *with him, or to whom he has issued a certificate*, for whom the voters of any such county or said city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem [or device] chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

§ 74. Section one hundred and thirty of the election law is hereby renumbered section one hundred and thirty-nine, and inserted in article five-b thereof, and is amended to read as follows:

§ [130] 139. Publication of nomination. At least six days before an election to fill any public office the county clerk of each county, except those counties which are wholly within the city of New York and [the county of Erie] *counties having a commissioner of elections* and in [the county of Erie,] *such counties* the commissioner of elections shall cause to be published in not less than two nor more than four newspapers within such county, one of which shall be a daily newspaper, if a daily newspaper is published in such county, and in any county having one hundred thousand or more inhabitants, adjoining a city having a population of one million or more, in not less than six nor more than *ten* newspapers, a list of all nominations of candidates for offices



other than town offices to be filled at such election, certified to such officer by the secretary of state, or filed in the office of such officer, *or certified by such officer*. The board of elections of the city of New York shall, within the same time before an election to fill any public office, cause to be published in two newspapers, published in each borough within such city, a list of the nominations of candidates for office to be voted for at such election in such boroughs respectively, which were certified to such board by the secretary of state, or filed in the office of such board, *or certified by such board*, and in the borough of Brooklyn the board of elections shall cause such publication to be made in the newspapers designated as corporation newspapers of said borough.

Such publication shall contain the name and residence, and if a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, and a facsimile of the emblems [or devices] selected and designated as prescribed by this article, to represent and distinguish the candidates of the several political parties or independent bodies. The city clerk of each city except New York and Buffalo, and the board of elections of the city of New York, and in the city of Buffalo the commissioner of elections, shall at least six days before an election of city officers thereof, held at different times from a general election, cause like publications to be made as to candidates for offices to be filled at such city election in a like number of newspapers published in such city.

One of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the largest number of votes in the state for such office; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the next largest number of votes, in the state for such office. The officer or board, in selecting the papers for such publications, shall select those which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the officer or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties. The officer or board shall make

such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the county clerk or other officer find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

§ 75. Section one hundred and thirty-one of the election law is hereby renumbered section one hundred and forty, and is inserted unchanged in article five-b thereof, to read as follows:

§ [131] 140. Lists for town clerks and aldermen. The county clerk of each county, except the county of Erie and those counties which are wholly within the city of New York, and in the county of Erie the commissioner of elections, shall at least six days before election day send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward; containing the name and residence, and if in a city, the street number of residence, and place of business, if any, of all candidates whose certificates of nomination have been filed with *or issued by* him or been certified to him, and the party of other designation, and also a facsimile of the emblem [or device] of each political party or independent body nominating candidates to be voted for by the voters of the respective towns and wards. Such lists shall at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which lists shall be so posted at each polling place.

§ 76. Section one hundred and thirty-two of the election law is hereby renumbered section one hundred and forty-one, and is inserted unchanged in article five-b thereof, to read as follows:

§ [132] 141. Posting town and village nominations. Each town and village clerk shall cause at least ten copies of a like list of all nominations to office filed with him for an election to be held at a time other than the day of the general election, to be conspicuously posted in ten public places in the town or village,

at least one day before the town meeting or village election, one of which copies shall be so posted at each polling place of such town meeting or village election.

§ 77. Section one hundred and thirty-three of the election law is hereby renumbered section one hundred and forty-two, and inserted in article five-b thereof, and is amended to read as follows:

§ [133] 142. Declination of nomination. The name of a person nominated for an [y] office *otherwise than by an official primary election*, shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination, or if nominated by more than one political party or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a [party] nomination filed with the secretary of state, such notification shall be given at least [twenty-five days, and if an independent nomination at least] twenty days, before the election. If the declination be of a [party] nomination filed with a county clerk or the board of elections of the city of New York, or the commissioner of elections of [the] a county [of Erie] *having a commissioner of elections*, or with the city clerk of any city, such notification shall be given at least [twenty days, and if of an independent nomination at least] eighteen days before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination at least seven days before the election; except that a declination of nomination to a town office in towns where town meetings are held at the time of general elections, must be filed in the office of the county clerk, and if in [the] a county [of Erie] *having a commissioner of elections* in the office of the commissioner of elections, within the time required by this section for filing the declination of nomination to a county office, and the county clerk or the said commissioner shall forthwith notify the town clerk in writing of such declination.

The officer to whom such notification is given shall forthwith inform by mail or otherwise the committee, if any, appointed on

the face of such certificate as permitted by section[s one hundred and twenty-one and] one hundred and *thirty-five* [twenty-three] of this article, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise that such nomination has been declined to the several county clerks or other officers authorized by law to prepare official ballots for election districts affected by such declination.

§ 78. Section one hundred and thirty-four of the election law is hereby renumbered section one hundred and forty-three, and inserted in article five-b thereof, and is hereby amended to read as follows:

§ [134] 143. Objections to certificates of nomination. A written objection to any certificate of nomination may be filed with the officer with whom the original certificate of nomination is filed within three days after the filing of such certificate. If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such certificate for the purpose specified in section one hundred and [thirty-five] *forty-four* of this article, and also to each candidate placed in nomination by such certificate. The questions raised by such written objection shall be heard and determined as prescribed in section [one hundred and twenty-five] *forty-four* of this [article] chapter.

§ 79. Section one hundred and thirty-five of the election law is hereby renumbered section one hundred and forty-four, and inserted in article five-b thereof, and is amended to read as follows:

§ [135] 144. Filling vacancies in nominations. If a nomination *made otherwise than by an official primary election* is duly declined, [or the attempt to nominate at a primary results in a tie] or a candidate regularly nominated *otherwise than by an official primary election* dies before election day, or is found to be disqualified to hold the office for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by section[s one hundred and twenty-

one and] one hundred and [twenty-three] *thirty-five* of this article, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy, it shall not be lawful to select a new emblem [or device] but the emblem [or device] chosen to represent or distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated as provided by this section.

§ 80. Section one hundred and thirty-six of the election law is hereby renumbered section one hundred and forty-five, and inserted in article five-b thereof, and is amended to read as follows:

§ [136] 145. Certificates of new nominations. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case provided for in section one hundred and [thirty-seven] *forty-six*, the said certificate shall be filed in the office in which the original certificate was filed at least six days before election, if filed in the office of a town or village clerk; at least fifteen days before the election, if filed with the county clerk or the board of elections of the city of New York or the commissioner of elections of [the] count[y] of Erie] *ies having such commissioners*, or the city clerk of any city; and at least fifteen days if filed with the secretary of state; and upon being so filed shall have the same force and effect as an original certificate of nomination. When such certificate is filed with the secretary of state, he shall, in certifying the nomination to the various county clerks and other officers, insert the name of the person who has been nominated as prescribed by the previous section, instead of that of the candidate nominated by the original

certificate, or, if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officers the name of the person nominated as prescribed by the previous section, and such other facts as are required to be stated in such certificate. When no nomination shall have been originally made by a political party or by an independent body for an office, or when a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nomination or to fill vacancies to nominate or substitute the name of a candidate of another party or independent body for such office; it being the intention of this chapter that when a candidate of one party is nominated and placed on the ticket of another party or independent body, such nominations must be made at the time and in the manner provided for making original nominations by such party or independent body.

§ 81. Section one hundred and thirty-seven of the election law is hereby renumbered section one hundred and forty-six, and inserted in article five-b thereof, and is hereby amended to read as follows:

§ [137] 146. Death of candidate after printing of ballots; official pasters. In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, *or by whom it was issued, and if filed with the secretary of state, the secretary of state shall immediately give the necessary notifications*, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy, and the title of the office for which he was nominated. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type as that used in printing the titles of the offices and the names of the candidates upon the official ballots and shall be of a size as large as and no larger than the space occupied upon the official ballot by the title of the office and the name of the candidate in whose place the candidate named upon the paster has been nominated. If the candidate be one of a group of candidates, such official paster

shall contain the name of the candidate but not the title of the office.

Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall deliver the pasters to the ballot clerks, who are required to affix one of such pasters in the proper place and in a proper manner upon each official ballot before said ballots shall be delivered to a voter. When so affixed to the official ballot, the pasters shall be **[considered as being]** part of the official ballot. The ballot clerks shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be inclosed in a package of ballots not delivered to voters.

The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.

§ 82. Section two hundred and ninety-two of the election law is hereby amended to read as follows:

§ 292. Filling vacancies in elective offices. A vacancy occurring before October fifteenth of any year in any office authorized to be filled at a general election shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term, or upon the occurrence of a va-

cancy in any elective office which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor may in his discretion make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than [twenty,] thirty nor more than forty days from the date of the proclamation.

A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

§ 83. The election law is hereby amended by inserting in article eighteen thereof a new section, to be known as section four hundred and eighty-nine, to read as follows:

§ 489. *Authority of state superintendent of elections. The authority, powers and jurisdiction of the state superintendent of elections for the metropolitan elections district with respect to general elections, as defined by the provisions of this article, are hereby extended to primary elections, so far as such provisions may be applicable; but no deputy superintendent of elections appointed under section four hundred and seventy-three of this chapter shall attend an official primary election for the purpose of voting.*

§ 84. Section five hundred and forty-one of the election law is hereby amended to read as follows:

§ 541. Statement of campaign payments not made through



political committee. Any person, including a candidate, who to promote the success or defeat of a political party, or to aid or influence the election or defeat of a candidate or candidates for public office, or to aid or influence the election or defeat of a candidate for nomination *for public office or election to party position* at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any office, whether public or not, to be voted for at a primary election, or to aid, influence or prevent the nomination of a candidate by petition under the provisions of the primary election law, directly or indirectly, himself or through another person, shall give, pay, expend or contribute, or shall promise to give, pay, expend or contribute, any money or other valuable thing except to the chairman, treasurer or a member of a political committee, or to an agent duly authorized thereto in writing by such committee, or to a candidate or an agent of such candidate authorized by the candidate thereto in writing, or except for personal expenses as hereinafter provided, shall file the statement required by section five hundred and forty-six, and shall be subject to all the duties by this chapter required of a political committee of the treasurer thereof.

§ 85. Section five hundred and forty-two of the election law is hereby amended to read as follows:

§ 542. Personal expenses defined. A candidate for *nomination or election to a public office, or to a party position specifically provided for in this chapter*, or to any office, whether public or not, to be voted for at a primary election; or for nomination at a primary election or convention; or for nomination by petition under the provisions of the election law, and any other person may incur and pay, in connection with such *nomination or election*, his own personal expenses for traveling and for purposes properly incidental to traveling; for writing, printing and preparing for transmission any letter, circular or other publication not issued at regular intervals, whereby he may state his position or view upon public or other questions; for stationery and postage; for telegraph, telephone and other public messenger service, but all such expenses shall be limited to those which are directly incurred and paid by him. A candidate shall in any event file a statement of any contributions made by him, *all his receipts and expenditures in connection with such nomination or election.*

§ 86. Section five hundred and forty-four of the election law is hereby amended to read as follows:

§ 544. Accounting to treasurer or candidate. Whoever, acting as an officer or member or under the authority of a political committee, or under the authority of a candidate for *nomination or election to public office; or for election at a primary to a party position;* or for any office, whether public or not, to be voted for at a primary election; or for nomination at a primary election, or convention; or for nomination by petition under the provisions of the election law, receives any money or its equivalent, or promise of the same, or expends or incurs any liability to pay the same, shall, within three days after demand, and in any event within fourteen days after such receipt, expenditure, promise or liability, give to the treasurer of such committee, or to such candidate if an agent authorized by him, a detailed account of the same, with all vouchers required by this article, which shall be part of the accounts and files of such treasurer or such candidate.

§ 87. Section five hundred and forty-five of the election law is hereby amended to read as follows:

§ 545. Vouchers. Every payment required to be accounted for shall, unless the total expense payable to any one person be not in excess of five dollars, be vouched for by a receipted bill stating the particulars of expense, and every voucher, receipt or account hereby required shall be preserved for fifteen months after *the primary or general* election to which it relates.

§ 88. Section five hundred and fifty-one of the election law is hereby amended to read as follows:

§ 551. Who may maintain proceedings. Application for an order as prescribed herein may be made by the attorney-general, district attorney, a candidate voted for at [the] *a general or primary* election in respect to which the allegations in such petition may relate, or by any five qualified voters who voted at such election.

§ 89. Section five hundred and fifty-three of the election law is hereby amended to read as follows:

§ 553. Time within which proceedings must be brought. Such petition shall be presented within fifty days after any *general or primary* election in respect to which the allegations of such

petition shall relate if the statement mentioned therein was filed within the twenty days as herein required; but if the statement shall not have been filed within said twenty days, such petition may be presented at any time not more than sixty days after the filing of the statement. The said petition and order to show cause shall be filed, and any order or judgment made in the proceeding based thereon shall be entered in the office of the clerk of the county in which such election was held, if held wholly within a county, or otherwise in such other office as the court, or a justice thereof, shall direct.

§ 90. A new section, to be known as section five hundred and sixty-two, is hereby added to the election law, to read as follows:

§ 562. *Party funds not to be expended for primary purposes. No contributions of money, or the equivalent thereof, made directly or indirectly, to any party, or to any party committee or member thereof, or to any person representing or acting on behalf of a party, or any moneys now in the treasury of any party, or party committee, shall be expended in aid of the designation, nomination or election of any person to be voted for at a primary election, either as a candidate for nomination for public office or for any party position. Except that such funds may be used to pay the expenses of holding any meeting of a party committee.*

§ 91. Sections two, twenty, twenty-one, twenty-three, twenty-four, thirty, forty-five, forty-six, forty-nine, fifty-one, fifty-three, fifty-four, fifty-five, fifty-six, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy-one, seventy-two, seventy-three, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and twenty and one hundred and twenty-one of such chapter are hereby repealed.

§ 92. Party committees now organized and in existence shall continue in existence with all the powers, not inconsistent with this act, which they now have, until the election in September, nineteen hundred and eleven, of the new party committees herein provided for.

§ 92. This act shall take effect immediately.

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**INDEX TO ASSEMBLY JOURNAL**  
**1911**

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## PLAN OF INDEX.

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This Journal is indexed upon the following plan :

1. Every bill relating to a locality may be found indexed under the name of that locality and ordinarily will not be found indexed under the subject to which it relates.

2. All bills relating to Kings county will be found under the New York, General, and all bills relating to Greater New York under New York City, General, and New York City, Charter.

3. Every general bill will be found indexed under the proper subject.

4. Every resolution, excepting those recalling bills, will be found under "Resolutions."

5. Every bill relating to canals will be found under "Canals."

6. The bills relating to general laws under the proper heads. i. e., "Banking Law," "Benevolent Orders Law," "Game Law," "Lien Law," "Revised Statutes," &c., &c., also under the head "General Laws."

7. All claim bills under "Claims."

8. Bills relating to cities of either class under "Cities of 1st Class," "Cities of 2d Class," &c., &c.

9. All code amendments under the heads of "Code Civil," "Code Criminal," and "Code Penal."

10. All petitions under "Petitions," and reports under "Reports."

11. All points of order under "Points of Order."

12. All decisions and acts of Speaker under "Speaker."

13. Privileges of floor under "Privilege."

14. All matters relating to bills under the proper head.

15. The numbers used in this index, viz. : "Int. No.," refers to Assembly bill and its introductory number, and when "Rec. No." is used, it refers to the Senate bill and its reception number.

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